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ROYAL COMMISSION

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ROYAL COMMISSION ON MATTERS OF HEALTH
AND SAFETY ARISING FROM THE USE OF
ASBESTOS IN ONTARIO

Vol: 2 - Tuesday, February 17, 1981

ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY
ARISING FROM THE USE OF ASBESTOS IN ONTARIO


CHAIRMAN: J. Stefan Dupre, Ph.D.

COMMISSIONERS: J. Fraser Mustard, M.D.

Robert Uffen, Ph.D., P.Eng., F.R.S.C.

COUNSEL John I. Laskin, LL.B.

Ontario Room
McDonald Block
900 Bay Street
Toronto, Ontario
Tuesday,
February 17, 1981
Volume II



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ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY
ARISING FROM THE USE OF ASBESTOS IN ONTARIO

VOLUME II

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ERRATA AND ADDENDA:

Bendix Corporation should read Bendix Corporation
wherever it appears

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THE FURTHER PROCEEDINGS OF THE COMMISSION
INQUIRY RESUMED PURSUANT TO ADJOURNMENT

APPEARANCES AS HERETOFORE NOTED

DR. DUPRE: Good morning, ladies and gentlemen.
I shall begin by reminding all present, including the chairman,
that when they speak they should speak into the microphone.

This is the second day of a phase of hearings
of this Royal Commission in which the Commission is conducting
dialogues with presenters of written submissions which have
been voluntarily placed before the Commission.

As I said yesterday, the atmosphere for this
particular phase of our hearings is an informal one. It is
designed to give my colleagues and I the opportunity to pose any
of a number of general questions, to engage in dialogue with
the presenters, and of course there is no particular reason
when certain questions we ask cannot be answered on the spot
why they cannot simply be taken as notice of some information
that we are after.

Our presenters this morning are from the Quebec
Asbestos Mining Association. The delegation of the QAMA is
headed by Monsieur Paul Filteau. Bienvenu, Monsieur Filteau.
We are in your hands.

MR. FILTEAU: Monsieur President et Mesieurs
Les Commissaires, good morning.

5 Allow me to introduce myself. My name is Paul
Filteau, mining engineer by profession. I am executive
vice-president of the Quebec Asbestos Mining Association.

10 With me at this table are, on my right, Mr.
Lionel Piuze, mining engineer with forty years of practical
experience in the asbestos primary industry, and technical
consultant to the Association; Doctor Michel Lesage, M.D.,
member of the Quebec bar, industrial medicine expert, consultant
to the Association and chairman of its Occupational and
Environmental Health Committee; Mr. Philippe Casgrain, Q.C.,
who has been the Association's general counsel since 1969.

15 At the outset, may I extend the apologies of
the president of our Association, Mr. Michael Prus, who
has been unavoidably prevented from attending this hearing
and participating in this presentation this morning.

20 The members of the Quebec Asbestos Mining
Association are pleased to have this opportunity to further
explain their views and comments on the asbestos/health
question which your Royal Commission has been mandated to
investigate. We wish to thank you for the kind invitation
extended to us for this purpose.

25 The Association shares indeed, with the public
authorities, the goal of limiting the health risk from exposure
to asbestos through recourse to the best available technology
as consistent with the primary asbestos industry context.

30 In addition to encouraging a spirit of
collaboration among its members and fostering technological
research studies, scientific and economic surveys, one of
the main raisons d'etre of the Association is to ensure the
welfare of workers in the industry by supporting governmental
efforts in the field of health and safety at work.

MR. FILTEAU: (cont'd.) Such an approach weighs heavily in sustaining our concern and interest in the deliberations of your Commission.

5 Mining of asbestos in the province of Quebec has been going for a hundred and five years, and like so many other industrial sectors the asbestos industry has been confronted in the past with health problems arising from its activities, but most of these problems have now been eliminated and the remainder are in the process of being solved.

10 Indeed, the Association does not believe that the general public is threatened by asbestos health effects as often claimed. On the contrary, industry is convinced that it is possible to produce and use asbestos safely.

15 Dr. Lesage and Mr. Piuze will now undertake to summarize the medical and technical position of our Association as to the primary production of asbestos. Following their remarks, Dr. Lesage, Mr. Piuze, Mr. Casgrain and myself will be pleased to expound further on any points of information and clarification upon which you may wish us to elaborate.

20 We trust that our comments, Mr. President et Mr. Commissaires, will be well taken and wish to assure you at this time of our appreciation for this frank exchange of information and your kind consideration of our views on the subject.

May I now call on Doctor Lesage.

25 DR. LESAGE: Thank you, Mr. Filteau.

30 Mr. Chairman, members of the Commission, the scientific medical body is totally in agreement with the fact that there are three main diseases related to the exposure of asbestos fibre. First, there is a diffused interstitial fibrosis of the pulmonary parenchyma, called asbestosis. Second, there is bronchogenic cancer. Third, there is the mesothelioma of the pleura and of the peritoneum.

DR. LESAGE: (cont'd.) At the outset, two points must be clarified. First, asbestosis is not a cancer. Second, bronchogenic cancer and mesothelioma could be asbestos-related disease, but this does not imply that all bronchogenic cancers and all mesotheliomas are related to asbestos fibre exposure.

Many authors have tried to establish a relation between exposure to asbestos and other cancers such as cancers of the larynx, kidneys, bladders, etc., but no statistically significant epidemiological study has proven the existence of this relation.

The case of gastro-intestinal cancer is still very controversial.

Asbestos-related diseases appear more or less rapidly according to the presence of other factors. Many research studies have shown the critical importance of asbestos fibre physical parameters..length, diameter, ratio...in the etiology of asbestos-related diseases.

It is now very well established that asbestosis and lung cancer are directly related to the length and degree of exposure to asbestos. This was shown more particularly by the studies made by the McGill group under the direction of Doctor Corbett McDonald, conducted among chrysotile miners, and the studies of Doctor Hans Weill, conducted among asbestos cement workers.

This dose/response relationship is clearly demonstrated in the most recent comprehensive scientific study on the effects of asbestos dust.

The research was part of a program established in 1966 at McGill University at the invitation of the Canadian government and with encouragement of the government of Quebec, to study the health effects of ...sorry...to study the health effects of work in the asbestos industry. The entire asbestos

DR. LESAGE: (cont'd.) industry of Quebec contributed to the study, from company management and unions to workers and their families.

5 In addition, the government backing...In addition to government backing, McGill University and the London School of Hygiene and Tropical Medicine, the joint organizers of the project, received financial support from the Institute of Occupational and Environmental Health of Montreal.

10 The final report, published in the British Journal of Industrial Medicine, goes into greater depth on the issue of asbestos dust exposure than any other epidemiological survey yet carried out. Moreover, Professor McDonald considers that he has made the optimum possible use of the data currently available on the subject.

15 It must also be stressed that the international scientific community has acknowledged the value of this study, conferring upon it a degree of credibility that makes it a key work and reference document.

20 The survey's primary aim was to define as accurately as possible the quantitative relationship between exposure to chrysotile asbestos fibre and the incidence of lung cancer.

25 Since lung cancer is also associated with smoking, a second objective was to attempt to separate the hazards and to determine the importance of each factor in the count of mortality. For each category of smoker the risk of lung cancer increases with the level of exposure, thus strengthening the argument that for lung cancer the dose/
30 response relation is linear. The effect of smoking is particularly harmful with heavy smokers whose standardized mortality ratio is four times higher than that of nonsmokers at the highest exposure level.

According to Doctor McDonald's report, the risk

5 DR. LESAGE: (cont'd.) run by asbestos workers before the implementation of dust controls in the mines and mills, that is in conditions which no longer exist, was equivalent to that involved in smoking heavily, "whereas at recent concentrations of around one million particles per cubic foot, the order of risk may now approximate to less than one cigarette a day".

10 By using these environment quality measurements, the mortality risk associated with work at different dust levels can now be assessed with some confidence. The precision of this risk assessment should now make it possible to determine an acceptable dust level and to take the appropriate social and political decisions.

15 May I quote a few passages of this report by the McGill group, and I quote: The abstract says that,

"We report a further followup of an IRDA cohort of eleven thousand, three hundred and seventy-nine workers exposed to chrysotile. The cohort consisted of all ten thousand, nine hundred and thirty-nine men and four hundred and forty women born 1891 to 1920, who had worked for at least a month in the mines and mills of Asbestos and Thetford mines in Quebec. For all subjects, length of service and estimates of accumulated dust exposure were obtained. With a smoking history for the vast majority, three methods of analysis, two based on the man-years method, the other a case and multiple controls approach, gave results consistent with one another and with previous analysis.

30 By the end of 1975, four thousand, four hundred and sixty-three men and eighty-four women had died. Among men the overall excess

DR. LESAGE: (cont'd.) "mortality, 1926-1975, was two percent at Asbestos and ten percent at Thetford Mines, much the dustier region. The women, mostly employed at Asbestos, had a standardized mortality ratio for all causes of zero point nine.

Analysis of deaths twenty years or more after first employment showed that in men with short service, less than five years, there was no discernible correlation with dust exposure; among men employed at least twenty years, there were clear excesses in those exposed to the heaviest dust concentrations. Reanalysis in terms of exposure to age forty-five showed definite and consistent trends for standard mortality ratios for total mortality for lung cancer and for pneumoconiosis to be higher the heavier the exposure.

The response to increasing dose was effectively linear for lung cancer and for pneumoconiosis. Lung cancer deaths occurred in nonsmokers and showed a greater increase of incidence with increasing exposure than did lung cancer in smokers, but there was insufficient evidence to distinguish between multiplicative and additive risk models.

There were no excess deaths from laryngeal cancer, but a clear association with smoking. Ten men and one woman died from pleural mesothelioma.

If the only subjects studied had been the 1904 men with at least twenty years' employment in the lower dust concentrations ranging six

DR. LESAGE: (cont'd.) "point six million particles per cubic foot, or about twenty fibres per c.c. per milliliter, excess mortality would not have been considered statistically significant except for pneumoconiosis. The inability of such a large epidemiological survey to detect increased risk at what today are considered unacceptable dust concentrations, and the consequent importance of exposure/response models are therefore emphasized."

That's the abstract. I would like to read also a few passages here, a few excerpts.

"Clear trends were found for standard mortality ratios to be higher the heavier the exposure for total mortality, pneumoconiosis, lung cancer, cancer of colon and rectum, respiratory tuberculosis, other respiratory disease and stroke.

The trends were most clear cut in pneumoconiosis and lung cancer, appearing in both Asbestos and Thetford Mines. The lung cancer trend was essentially linear, as shown in the figure, where exposures of thirty million particles per cubic foot/year or more, have been broken down further into four classes. The trend for respiratory tuberculosis was also consistent in the two areas, but not those for the other causes listed here.

The risk of death from cancer of the esophagus or stomach was highest in the most severely exposed, but only at Thetford Mines. So was the risk of death due to heart disease, but only at Asbestos.

DR. LESAGE: (cont'd.) "Other abdominal cancers and laryngeal cancers were inversely related to exposure and no other patterns could be elucidated.

The last line of the table here is repeated from the previous table, but the righthand margin shows a clear and substantial effect of cigarette smoking. For each category of smoker, the risk of lung cancer was lowest among those with low exposure to age forty-five, and highest among those with exposure of at least three hundred million particles per cubic foot/year by that age. The interaction between factors of smoking and dust exposure is examined later.

Corresponding detail for laryngeal cancer is confusing because of the very small number of deaths from this cause. As already seen, the dust effect was, if anything, inverse.

However, the smoking effect was quite strong.

Nonsmoker - two deaths with an SMR of zero point four six.

Moderate smokers - ten deaths with an SMR of zero point nine three.

Heavy smokers - five deaths with an SMR of four point eight five.

About smoking, the interaction between dust exposure and smoking and lung cancer mortality is explored in this report where the distribution of dust exposure of the single control matched so far as possible for smoking is compared with that of the cases in each smoking category separately.

The final section of this table differs from

5 DR. LESAGE: (cont'd.) "the corresponding part of the previous table because of the different selection of controls, but the relative risks are similar. Further, the relative risks within smoking categories are in reasonable accord with those obtainable from table nine, here, despite major differences in the methods of determining them.

10 Clearly lung cancer can occur in nonsmokers, and indeed it might seem from all that that the relative risk due to asbestos exposure was in fact higher for a nonsmoker than for a smoker. Linear dose-response relation have been fit so far without regard for smoking using the data on which table ten in this report is based, but taking into account the matching of controls for each case in terms of date of birth and place of employment, the standard error of the estimate of the slope being zero point zero five, the fit line was relative risk of one point zero zero one four. The linear fit account..."

20 Well, I'm not going into that because I think it's too technical.

25 "For women: of the four hundred and forty women in the cohort, only thirty-one were lost to view, which is seven percent, a better rate of tracing than for men. Of those traced, three hundred and twenty-five were alive until 1976, which is seventy-nine point five percent, and eighty-four had died, the lower percentage mortality than in the men being largely explained by the younger age of the women. The women had been employed mainly at Asbestos, four hundred and eight,

5 DR. LESAGE: (contd.) "and only eighty-four had been exposed to more than thirty million particles per cubic foot/year by age of forty-five. In addition to the case of pleural mesothelioma...they had one case with women...mentioned above, there was one death from lung cancer, compared with one point one nine expected."

10 In the discussion of this report, and I quote here, it is said that, "similar uncertainty remains over the form of interaction between asbestos exposure and cigarette smoking. Our data seem as compatible with the additive model of relative risk discussed by Serrique as with the multiplicative model, that is, with the simplest form of his model two. They are quite incompatible with the model three he spoke before in which asbestos can only increase lung cancer in the presence of smoking. The IRDA model allows one to speculate that the dust concentration in the Quebec mills in the early 1950's before effective dust suppression was introduced carried a lung cancer risk equivalent to heavy smoking, whereas at more recent concentration of around one million particles per cubic foot the order of risk may now approximate to less than one cigarette a day."

25 Unquote.

30 The author emphasizes the importance of having examined subjects exposed to a wide range of dust concentration in order to determine the increase in risk with the increase in exposure. In fact, even using a sample of workers who were exposed continuously over a period of twenty years to twenty

5 DR. LESAGE: (cont'd.) fibres per c.c., it would have been difficult to establish an increase in risk. Thus it would seem that if it is almost impossible to discern an increase in risk at an exposure rate of twenty fibres per c.c., a level which has not been found for many years, it is all the more so at two fibres per c.c., that is, at the present standard of dust levels in the asbestos industry.

10 In relation to asbestos in public buildings, we would like to point out the study of James Shirripa:

15 "According to this study, the risk of cancer from asbestos fibres may increase significantly in the process of removing the asbestos materials. Shirripa found that the 'risk of doing something', which is removing asbestos insulation, for instance, 'increases the rate of potential cancer cases from a hundred and twelve cases per million in the population over forty years, to two thousand, two hundred forty-five cases per million in forty years, or twelve thousand, three hundred and forty-nine cases in ~~seventy-~~ five years'."

20 A special Commission created to analyse asbestos exposure in Massachusetss public schools developed its own guidelines, since there are no public exposure standards for asbestos. Based on air sampling data collected at nine schools containing no asbestos, the Commission-appointed ad hoc
25 committee established that interpretation of air levels at or below zero point zero four fibres per c.c. was not possible due to normal background noise. Airborne fibre concentration in excess of this value were considered of no significance. Hence, a zero point zero four fibre per c.c. exposure is a
30 background dose.

The presentation of Doctor David Muir at the

5 DR. LESAGE: (cont'd.) second public meeting of the Royal Commission on December 12th, 1980, confirmed the fact that extrapolation is a pure mathematical hypothesis and should be used as such.

Doctor John Van Ryzin, from Columbia University School of Public Health in New York, declared at the 1979 annual meeting of the American Academy of Occupational Medicine, speaking about quantitative risk assessment, that:

10 "Unfortunately"...and I quote..."unfortunately, the assumptions of dose-wise additivity, an effective background dose and the point that the dose/response curve has a strictly positive slope for all doses greater than zero and all
15 carcinogenic dose/response curves are far from being biologically verified facts. If DNA repair mechanisms are at work, the slope of the dose/response curve may be zero to some point d^* above the postulated background dose."

20 There is a level for noise where the ear suffers no damage. There is a level for toxic substances where there is no toxic effect on the human being. But for some people when they speak of a carcinogenic substance, they hypothetically assume that the human biological cell stops reacting.

25 OSHA based its definition of a carcinogenic substance on two hypotheses that are highly questionable. The first one is the use of animal tests for labelling substances dangerous to man. The other hypothesis is the use of the *res ipsa loquitor* theory. One pretends that if a substance is carcinogenic, one molecule of this substance is carcinogenic. This is also pure hypothesis.

30 One forgets that a substance is not carcinogenic by itself, but always in relation to a biological cell and, as already mentioned, discounts the normal defence of the human

5 MR. PIUZE: (cont'd.) the 1960 period when the health hazards related to excessive asbestos dust over a long period were not scientifically known, when adequate dust control equipment was not available in the market, and when dust measurement equipment was not adequate.

10 Our Association hopes that your Commission will follow and possibly update the formulation of the recommendations of the Beaudry Commission report published in 1976, covering modern exposure of asbestos workers, modern health conditions of these workers, adequate dust measurement equipment, influence and control of additives used in asbestos manufacturing plants.

15 As a preliminary approach to their broad investigation, it would be advisable, in our opinion, that the members of the Ontario Royal Commission pay a visit to the modern Quebec primary asbestos plants where the most up-to-date equipment and production techniques have been developed and put into operation. This visit should also include their evaluation of the existing local medical clinics.

20 Our presence before your Commission is justified by the fact that, as Canadians, it is our duty to defend one of the ten most important minerals produced and processed in Canada by thousands of Canadians.

Expressed in dollar value of Canadian mineral production, asbestos ranks at the same level as uranium and potash.

25 In general, the existing criticism of asbestos in relation with health is related to the period preceding the year 1960. It is only at that time that exposure to excessive asbestos dust over a long period of time started to become scientifically and medically established as a health hazard. One must also realize that prior to 1960 adequate protective
30 equipment was not available both in quality and in quantity.

5 MR. PIUZE: (cont'd.) At this stage I would like to mention to your attention the following facts. We don't want to be archaeologists in the evaluation of the problem that we are studying together. We also realize that the first organization that got involved in the relation between asbestos and dust was OSHA in the United States, and as you know, OSHA was established within the Department of Labour in the U.S.A. only in April, 1971.

10 The first standard that was published in the United States dates back to 1969. It was issued under the Walsh-Eli Public Contracts Act establishing a limit of exposure of twelve fibres per c.c.

In 1971, OSHA reduced the concentration to five fibres per c.c., and in 1976, to two fibres per c.c.

15 I'm giving you this addition to prove that prior to, let's say 1969, the knowledge of the relation between asbestos and dust (sic) was in its infancy.

20 In general, the existing criticism of asbestos in relation with health is related to the period preceding the year 1960. It is only at that time that exposure to excessive asbestos dust over a long period of time started to become scientifically and medically established as a health hazard. One must also realize that prior to 1960 adequate protective equipment was not available both in quality and in quantity.

25 In the last two decades, major improvement have been made in the asbestos industry and at present the most sophisticated equipment used in modern plants, the efficient training of operators and the co-operation of labour unions has not made it possible to attain a time-weighted average of one fibre per cubic centimeter.

30 On the other hand, recent scientific epidemiological surveys and medical reports have shown that with a dust concentration averaging two fibres per c.c., the health of

MR. PIUZE: (cont'd.) workers is well protected.

It is astonishing that the Ontario Ministry of Labour has gone ahead with proposed changes in asbestos regulations when the government of Ontario has just taken the Royal Commission route with a mandate to study all aspects of asbestos in Ontario.

The Beaudry Commission report published in 1976 submitted an up-to-date presentation of asbestos and health problems and made firm recommendations on environmental control of asbestos dust, on instrumentation to be used for spot control, geographic surveys, continuous monitoring, dynamic personal sampling and high-volume sampling. Fibre counts and gravimetric measures were covered in full details and rigid norms and threshold limits were recommended to the Quebec government and promptly accepted and enforced by the Department of Natural Resources.

During the period 1970-1980, inclusive, more than one hundred million dollars have been invested in industrial control within the primary Quebec asbestos industry. To date all equipment has been enclosed and operated under vacuum, and the percentage of exhaust air used exclusively for dust control has been raised to more than forty percent of the total. This is illustrated in one of the appendices.

In modern plants, bagging, sewing, sealing, palletizing, storing, regrading, shipping and dry storage operations have been fully mechanized and automated, and all employees have been trained in proper handling of asbestos. High-capacity water tanks have been added to control dust on mine roads and platforms; in heavy equipment air conditioning units have been installed in the cabins; back filter units have been added to cyclone collectors at all remote ore and waste mechanical transportation and transfer points;

5 MR. PIUZE: (cont'd.) high-capacity central vacuum systems have replaced brooms for cleaning floors and equipment; jute bags have been eliminated and replaced by dustproof paper and plastic bags; standard clean maintenance procedures have been developed for mill equipment.

10 Weekly, semi-annual personnel-dynamic and spot surveys are carried out on a regular basis using both fibre counts and gravimetric measurements. High volume air sampling is also read daily at stations located around the periphery of the properties. Union and company technicians work in parallel during all these surveys and the results are passed on to both the Department of Natural Resources and the president of the union. These data are also reported to all the employees through the monthly union letter to membership.

15 Despite all of these procedures and efforts, after five years it has been impossible to reduce the dust concentration below one point five to two fibres per c.c. on a time-weighted average basis.

20 Annual medical examinations verified by the Department of Pneumology of the government show that all employees hired during the last two decades enjoy a health status at least equal to that of the general population.

25 The proposed Ontario Ministry of Labour regulation states that, in brackets, "the time-weighted average exposure to chrysotile must not exceed one fibre per c.c. of air". Close the bracket.

30 There is no scientific technical nor medical evidence which supports this rigid requirement. On the contrary, the 1980 report of J.C. McDonald and others published in the British Journal of Industrial Medicine in 1980, concluded that:

"A cohort of workers exposed continually to twenty fibres per c.c. over a period of twenty

MR. PIUZE: (cont'd.) "years does not indicate a higher risk than the general population as far as lung cancer is concerned."

5 This exposure of twenty fibres per c.c. is considerably higher than the present standard of two fibres per c.c. It must be noted that the McDonald report carries a cohort of eleven thousand, three hundred and seventy-nine workers. This report also shows that smoking a very few
10 cigarettes a week is more harmful to health than the present to asbestos dust.

Confirming the McDonald report, in one of the primary plants built in 1957, the most important and at the same time the most impressive finding, is that health conditions of employees having worked during the last two decades when
15 the dust concentration was gradually reduced from approximately twenty fibres per c.c. to the present two fibres per c.c. Among the seven hundred and forty workers, a group of three hundred and fifty men who had no previous exposure to asbestos dust and who had individually accumulated a continuous service of twenty-three years in the plant, do not show any
20 indications of respiratory disease related to asbestos dust.

This record suggests that with adequate control, for example, a concentration of two fibres per c.c., the asbestos worker is not at a greater risk than the general population.

25 Considering the asbestos/health issue, one has to be careful not to act as modern archaeologists dreaming in the past, but to accept scientific evidence that a weighted average concentration of two fibres per c.c. does not present any excess risk to asbestos workers.

30 The northern section of the province of Ontario, in the Timmins area, includes a favorable geological formation which one day could contribute to an economic production of

MR. PIUZE: (cont'd.) chrysotile asbestos. It would be advisable for the promoters of such deposits to benefit from the experience gained in primary asbestos plants in other provinces of Canada, and in other countries of the world.

Members of the Commission should also evaluate the results of other modern asbestos mills before recommending a time-weighted average dust concentration which would be impossible to attain even with the most modern equipment. To legislate down to one fibre per c.c. would be equivalent to banning the mining of asbestos in Ontario.

Asbestos recommendations in other countries... this is shown on Appendix Three...present a summary of the main features of asbestos and health regulations in many countries of the world. One should note that all the countries which are major producers of possible substitutes have a TWA regulation before two fibres per c.c.

In the list of issues before the Royal Commission on Asbestos, one...issue number five...covers the respective responsibilities of employees, of labour unions and government agencies in dealing with the asbestos/health problem and the success attained by each group.

In the province of Quebec, during recent years, the actions and accomplishments of the different groups can be summarized as follows:

The employers have made a major effort in improving the quality of the ambient air by investing one hundred million dollars to provide additional exhaust air, by completing the covering of existing equipment, by installing the most sophisticated automated equipment, by providing central twin vacuum systems to replace the former broom cleaning method. The employers have also made a major effort in training union-selected representatives as hygienist-technicians to work in parallel with company technicians in measuring the dust content

MR. PIUZE: (cont'd.) of the ambient air, and in evaluating the results of these measurements.

The union representatives have also followed courses in ventilation and noise control.

The labour unions have co-operated efficiently with the company in taking full advantage of the provided training and in advising the workers and the union officers of the results. They have also been effective in training workers on the proper use and maintenance of the equipment.

The labour unions, especially the Steel Workers of America, have also been very effective in defending the reputation of asbestos by delegating some of their top executives to Europe to at least three meetings of the International Labour Organization and the International Federation of Metallurgical Workers, where they were successful in convincing these organizations that with proper handling asbestos can be used safely without affecting the health of the workers, and that the proposed suggestion of banning asbestos be rejected.

The government itself, through its agencies, as demonstrated by the Beaudry Commission, has been successful in recommending proper handling of asbestos, in suggesting the most efficient measurement equipment, and in recommending to the Quebec government a norm which can, at the same time, be technically possible with the proper use of modern equipment and also protect the health of workers.

Results of this co-operation between employers, labour unions and government are well illustrated in Appendix Four that you have in your possession.

Now, a few words about the measurement of asbestos levels in the ambient air.

A worldwide survey of the regulations concerning asbestos and health shows that most countries have adopted NIOSH Membrane Filter Method with appreciable variations in the

5 MR. PIUZE: (cont'd.) instrumentation itself and the techniques used by the different labs in evaluating the results. These evaluations range from thirty and fifty percent in the case of experienced readers, and one hundred percent in the case of inexperienced technicians.

10 Another important country, Russia, is using the gravimetric method, while Germany, Austria and the province of Quebec have based their regulations on a combination of membrane filter and gravimetric techniques. The Association believes that a regulation used in the province of Quebec combining efficiently the two methods should be evaluated seriously by the Ontario Royal Commission.

15 At the present time, a committee of experts selected by the Asbestos International Association is working seriously on the presentation of a standard measurement method that could be used throughout the world as an official standard.

20 A few notes now about the NIOSH membrane filter method. This method of sampling, mounting and counting fibres is used both for strategies of fixed station sampling, dynamic sampling and personal sampling. This apparatus permits only an index value of the real concentration of asbestos fibre in the ambient air. The index concentration is based on the measurement, using a phase-contrast microscope under magnification of four hundred to four hundred and fifty of particles with a three to one length to diameter aspect ratio which are longer than five microns, where the diameter is limited by the respirability of the fibre at one end - three microns - and by the resolution of the microscope used at the other end, which is plus or minus zero point five micron.

25
30 The membrane filter method lacks uniformity from country to country, and also from lab to lab. The diameter of the filter varies from thirty-seven millimeters to twenty-five

5 MR. PIUZE: (cont'd.) millimeters and thirteen millimeters. The net opening of the filter varies between zero point eight micron and one point two micron. The type of graticule used on the microscope varies from the Ponton, with a factor of one forty-two point five, to Waltan and Beckett, with a factor of fifty-four point four five, the German graticule, the BS 3625 and the Patterson. The volume of air per minute and the period of sampling in minutes also vary from country to country.

10 These variations make it compelling that a uniform method presently being prepared by the Asbestos International Association be adopted on a worldwide basis.

Now a few words about the gravimetric measurements. We'll just say a few words about the APM, the RDM-101-4, the FAM and the Tyndallometer.

15 These gravimetric measurement methods are described in Appendices six, eight and nine.

20 The APM, which means ambient pollution monitor, detects the particle concentration by the beta radiation attenuation principle. It is normally used as a continuous monitor operating twenty-four hours a day and registering the results on tape.

25 The RDM-101-4, which means respirable dust monitor, described in Appendix eight, collects respirable dust at the rate of two litres per minute by impaction on a polyester disc on which a layer of grease has been spread. The nonrespirable fraction of the dust is separated by a ten millimeter nylon cyclone. This cyclone stops all the particles with an aerodynamic diameter less than two microns. The measurement of the concentration is performed automatically with the beta radiation attenuation principle.

30 This instrument can be run on the automatic mode for concentration of zero point zero two to fifty milligrams per cubic meter. The measuring cycle is four minutes. It

MR. PIUZE: (contd.) is used for measurement at fixed stations as well as for dynamic surveys.

5 The FAM, which means fibrous aerosol monitor, described in Appendix six, is the only instrument now available on the market that monitors the concentration of fibre numerically. It may, when it is fully tested and accepted, replace the membrane filter method in some of its applications. This instrument is fully described in Appendix six.

10 The Tyndallometer, Appendix six also, puts into application the Tyndall Effect whenever microscopic particles that have dimensions comparable to the wavelength of light are present in a transparent environment. Their presence is not detected by transmission, as they do not produce a shadow, but by laterally diffracted light; this phenomenon is called diffusion of light.

15 The Tyndallometer is designed so that the signal measured is proportional to the volume of dust deposited in the lungs. The signal is then converted to gravimetric terms in milligrams per cubic meter.

20 The Tyndallometer is used as a spot checking instrument to give valuable information on the variations of dust concentration.

25 In 1973, McGill University made a scientific study, an evaluation of the thirteen most popular dust masks, and it concluded that the single-wear-use number 3M-8710 was the most efficient respirator for dust concentration varying between five fibres per c.c. and fifty fibres per c.c. This type of mask is presently in use by all Quebec asbestos primary plants. It has the advantage of being efficient, light, comfortable for the worker, and it is well accepted by all the operators.

30 Our Association is convinced that the membrane filter method and gravimetric methods as described in the

MR. PIUZE: (cont'd.) appendices attached to our submission, should be used for positive control.

Thank you.

5 MR. FILTEAU: To conclude, Mr. Chairman and members of the Commission, may I say that public discussion of the health effects implications of exposure to asbestos dust has led to the unwarranted and erroneous assumption that data on health risks associated with occupational exposure in the past are applicable at the present time to the general public
10 and to many locations where asbestos products can be handled with complete safety. It is well known that in many asbestos products the fibre is locked in by another material. In asbestos cement sheets, for example, it is locked in by cement; in brake and clutch lining, by a fully-baked resin; in gaskets, by rubber or synthetic rubber. So many modern asbestos products
15 are not by their nature dusty to handle.

There is little evidence, scientific or otherwise, that anyone in the general public has contracted any disease as a direct result of using asbestos products in their homes, or from exposure to the very small amounts of asbestos
20 released in the atmosphere through application, use, wearing or weathering of finished asbestos products.

May I add, Mr. Chairman and Commissioners, that Mr. Piuze and your truly have been in the asbestos primary industry for more than eighty-two years of our combined working lives, and for forty percent of the productive existence of
25 the industry in Canada. Asbestos-related diseases develop generally only after the inhalation of abnormal quantities of airborne asbestos dust. Concentrations of this order have not been found in the general urban atmosphere and the general public are not at risk on this account. A more severe standard
30 should be set only if justified by new scientific and medical data.

Respectfully submitted.

DR. DUPRE: Thank you very much indeed, Mr. Filteau, gentlemen.

5 If I may make a comment on your brief, I think that I would certainly make the same comment about it as the brief presented by the OFL yesterday...it represents your interests well. I have found this particular brief most informative. I congratulate you on it.

10 With respect to any of a number of points that you make on health effects, about which my colleagues and I may want to ask you informal questions, I think I can take it as understood that yourselves, as a party with standing, are already aware that in the second phase of this hearing we shall be trying to take expert testimony from the various scientists which have been so far copiously cited not only by
15 yourselves, but in other material that we received.

20 So I simply point this out because I think it should be stated openly that that is our common understanding between the Commission and yourselves as a party with standing, and also to assure you that we are not about, this morning, to get into some of the refined questions of scientific evidence.

25 I just have a few opening questions that I would like to ask before we take a coffee break, but could I please... I'm just reminded here...there is a message for a Mr. Dave Burton which can be claimed on this table if he is in the audience.

30 Mr. Filteau, just to develop a very general line of questioning with you and your colleagues, as I read your brief I am, of course, impressed by many things...but impressed, among other things, by the extent to which much of what you are laying before us is in the domain of, as you call it, primary asbestos industry, the mining side of asbestos.

5 DR. DUPRE: (cont'd.) In this province, of course, the main uses of asbestos...and indeed I might point out...the main industries in which there has been incidence of tragedy are at the manufacturing end, either generally, of construction materials, or again, allegedly associated with automotive parts, or again, steel. When you quite rightly situate the economic importance of primary asbestos for Quebec and for Canada, if I remember from your brief, about seven thousand people directly employed in asbestos mining, maybe 10 sixty-five thousand others dependent on it...could I ask you, please, just a ballpark guess, would there be any meaningful number of meaningful amounts of employment generated in Quebec outside of the primary end of asbestos, that is to say, in manufacturing or steel or automotive operations?

15 MR. FILTEAU: Yes, that's a good question, Mr. Chairman. As you know, as an Association we cannot speak on behalf of the manufacturers, we represent the mining producers, but I can tell you that the job distribution in Quebec and Canada in the manufacturing industry is approximately as follows: sixteen hundred jobs in Quebec and about fourteen 20 hundred jobs in the balance of Canada.

DR. DUPRE: This is in asbestos...?

MR. FILTEAU: Manufacturing.

DR. DUPRE: Of all kinds?

MR. FILTEAU: Of all kinds.

DR. DUPRE: Of all kinds.

25 MR. FILTEAU: Directly involved, I mean, a hundred percent of their time. In some of these manufacturing plants you will have different product lines, but I mean, I'm talking only of the employees directly affected on asbestos-containing products.

30 DR. DUPRE: That's an interesting piece of information for me, because you have kindly directed the attention

5 DR. DUPRE: (cont'd.) of this Commission to the kinds of protective and other technologies that you have in place in your mining operations. Now, have these technologies that you have been using on the mining side had a major influence on the kinds of protection that are afforded to workers in Quebec on the manufacturing, of the secondary end of asbestos operations? Have they had a lot to learn from the mining experience?

10 MR. PIUZE: Mr. President, I can comment on that by saying that most of the manufacturing plants have visited our modern operations in the last few months, and are fully aware of the modern type of equipment, the modern techniques that we use, and the results that we have obtained. Of course, it's not our responsibility to go and visit manufacturing plants and tell the workers how to handle the material. Our
15 responsibility rests with stating the facts to the people who are buying from us.

20 DR. DUPRE: Have the manufacturing plants come to your Association to, among other things, benefit from such experience and technological know-how as you have been able to apply on the mining side?

25 MR. PIUZE: They certainly have, because in a great number of cases they have sent some of their own technicians to see what we were doing, and in other cases they have asked some of our own technicians to go down to their place and give them more details, and we have also provided with sketches and plans and information and data to help them maintain a healthy condition in their plant as far as asbestos is concerned. We have no influence whatsoever on whatever ingredients that have to add to asbestos to make a final product. That's their own business. But as far as asbestos itself is
30 concerned, our doors are always wide open to them to see what is presently done.

5 DR. DUPRE: Could I follow up this general line
of economic questioning by referring to actually a section of
your brief in which you speak to the health effects that link
different kinds of asbestos to mesothelioma, and one of the
lines of literature that is cited here...I'm not citing it
with any judgement as to its quality or otherwise...is the
quite well-known line that crocidolite asbestos may be more
hazardous with respect to, for example, mesotheliomas, than
10 chrysotile. Could I just ask you this, as a mining association
which, as you point out, is largely engaged in chrysotile
asbestos mining, would you have any particular objections to
crocidolite being banned from Canada, or for that matter from
any particular provincial jurisdiction? Do you see any...is
there anything here that would affect your interests?

15 MR. PIUZE: Well, Mr. President, as you
perfectly well realize, we are in competition with crocidolite
in many fields of industrial purposes. My answer to that is
that there seems to be an indication that crocidolite could be
more harmful to health than chrysotile. But on the other hand,
if it's handled properly with all the care that can be applied,
20 I don't see any reason why it could not be used safely.

I'll add one sentence to that: A year or so
ago the government of Quebec made a survey of over six thousand
employees presently at work in the Quebec primary industry,
and this is answering the first part of your question, is that
out of those six thousand there was not one case of mesothelioma
25 found.

DR. DUPRE: I take your point that as chrysotile
producers you are competitive with crocidolite. I also take
your other point.

30 Could I ask you just one last question in this
general economic area, perhaps, before we take a break? I
have noted your point with respect to possible asbestos exposure

5 DR. DUPRE: (cont'd.) standards in Ontario, that standards below a certain level would be equivalent to banning the mining of asbestos in Ontario. From a standpoint of, again, the interests that you represent, isn't this just for the time being taking a potential competitor out of the field?

MR. PIUZE: I don't quite get your question.

10 DR. DUPRE: Well, to put it bluntly, if Ontario reopened Matachewan, for example, that would be a chrysotile-producing mine in Canada whose output, of course, would compete with whatever output is coming out from Quebec mines, both on the Canadian and the world market, and I'm wondering how this can conceivably be in the interests of your Association.

15 MR. CASGRAIN: It may be a question of economics to you. To my clients, I'm sure it is. I have the feeling we would be cutting our nose to spite our face should we say, answer in the affirmative, don't you think?

DR. DUPRE: Okay. That speaks volumes.

May I call the coffee break at this point, please?

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20 THE INQUIRY RESUMED

DR. DUPRE: Mr. Filteau, gentlemen. Dr. Uffen has some questions.

25 DR. UFFEN: Yes. I found your brief very interesting, and I have read the appendices and so on, and I'm not intending to go into them in detail today, of course, because that would be more appropriate, as the Chairman has said, later on. But there are some things in there that I would like to ask you about, of a somewhat general nature.

30 It seems to be a very fundamental point that you have made about the difficulty of getting to one fibre per cubic centimeter from the existing two. There are a number of charts here for your various operations. If I have read them correctly, there seems to be a cycle related to the time

5 DR. UFFEN: (cont'd.) of year, and this may be an over generalization, but you have a splendid record during the summer months, and then it becomes much more difficult in the winter. If this is correct, could you explain this cyclical problem?

10 MR. PIUZE: Yes. We are quite aware of this factor and it is one of the things that we are working on. There is quite a difference between the summer operations and the winter operations due mostly to the amount of humidity in the air, and there is a study that is being made now by Doctor Gibbs to introduce...I wouldn't say a continuous...but try to get as continuous as we can in maintaining a degree of humidity which would be constant throughout the year.

15 DR. UFFEN: Does that mean that if you could keep it the same as in the summer you might achieve the same results as in the summer?

20 MR. PIUZE: Well, there is something else I would like to add, Bob, is that what you have on these long charts in front of you does not refer to a geographic survey. It is related to a dynamic survey where a combination of union technicians and government technicians keep zigzagging across all the different machines on every floor and take a sample both in gravimetric methods and in membrane filter, and in the mill, for example, they will take as many as three samples. Then they will go down to the dryers and do the same, and go down to the crushers and do the same.

25 DR. UFFEN: But is it the same summer and winter?

MR. PIUZE: Well, what you have there is, as you have explained it so well, you can see from the chart that you have that there is a difference between summer and winter.

30 DR. UFFEN: There is a somewhat related question, and this is about the costs. You made the point that you have spent a hundred million dollars in the last ten years, and it

5 DR. UFFEN: (cont'd.) would appear that you have accomplished a very great deal, and the Commission will look at this quite seriously to see what we can learn from this. But could you relate that hundred million in some way to the other capital expenditures? A hundred million is a lot of money, but is it a lot over ten years compared with, say, similar expenditures? I happen to be familiar with the problem of putting scrubbers into a coal-fired electric generating station. They cost three hundred million dollars, you have to put them in in four or five years, and the direct health effects on the public are considerably less than the asbestos. So a hundred million needs to be related to something.

10 MR. PIUZE: Well, of course, it first has to be related to the number of units that we represent. There are quite a few milling operations in Quebec, and this is a total for them all. But the cost is so terrific now in the purchase of equipment and the installation of the same equipment.

15 To give you one single example, to completely automate the palletizing of the fibre after bagging, at one plant, which is not one of the largest, it cost one and a half million dollars.

20 DR. UFFEN: Well, I did a little back-of-the-envelope calculation and I would like to know whether I'm right. I think there's something like seven thousand employees directly involved, over ten years it's something like a hundred dollars per employee per year?

25 MR. PIUZE: Yeah, we've certainly spent that much. Don't forget that it is a hundred million that we report. In my estimation, it's conservative.

30 DR. UFFEN: Did that come solely from the industry, or was there any government subsidy, or...?

MR. PIUZE: There was no subsidy whatsoever. It was paid entirely by the industry.

MR. FILTEAU: Seven thousand employees includes management.

DR. UFFEN: Includes what?

MR. FILTEAU: Management. It does not include only the workers in the plant. It includes the management in the head offices.

DR. UFFEN: If you reduce the number, then it would increase the amount per worker?

MR. FILTEAU: Yes. It would be about sixty-two hundred.

MR. PIUZE: I can add something else. Johns-Manville have rebuilt a new section of their plant; Bell Asbestos have built a completely new primary mill. So there you've got many millions, many tens of millions of dollars involved in these two cases alone.

DR. UFFEN: I have another kind of question, quite a leap. I'm interested in the research that your Association has been sponsoring, and in your brief you talked about the Institute of Occupational and Environmental Health and there's a number of projects involved. Would you care to elaborate a little bit on those, or would you prefer to do this as an expert? In particular, I'm interested in the one that was reported just before Christmas on the apparent chemical aspects of asbestos as related to health problems, rather than the physical dimensions of the fibres.

MR. PIUZE: Well, to be very honest with you, sir, the man who should be here...who should answer your question is not here today, but he will be present, we hope, at the next meeting. He is the man who has made the study to determine the changes in characteristics of asbestos due to some additive at the plant itself, and also what he calls some major characteristics or changes that take place in the asbestos fibre upon being mixed with other ingredients at the

MR. PIUZE: (contd.) manufacturing level. But this man will be here at some time, and I would much sooner if you hear it from his own mouth than hear it from...secondhand.

5 DR. UFFEN: Could I put a very brief supplementary question to Dr. Lesage? If this research work proves to be confirmed by others, and so on, this attacks, apparently, the basic hypothesis that the health effects of asbestos are due solely to the physical dimensions. Have I grasped that correctly?

10 DR. LESAGE: Yes, you are right. This research is made by Doctor Donnegan in Sherbrooke, and his group, and until...I should say until two years or three years ago most of the scientific people interested in that part of the research on asbestos were relating the hazard of asbestos to the physical parameters, the diameters and the length. Dr. Donnegan is on his way to prove also that there is major change in the chemical composition of the fibre when it's mixed with other substances, like cement for instance. He thinks that the
15 asbestos fibre...I don't want to say as a free radical...but as something to be a carrier of other substances and if it's a free asbestos, then this possibility of carrying other
20 substances is always there, and then if it's mixed with another carcinogen, a co-carcinogen, then can be more dangerous this way, acting as a co-carcinogen. If this part of the fibre is taken by cement, by another substance, then the dangerous part of the fibre is no more existent or less existent. It's going
25 in that direction.

DR. UFFEN: Is it naive or premature to say that this may lead or could lead to corrective action that would render the product, asbestos, still usable for industrial purposes but reduced the health hazard, by a chemical treatment?

30 MR. FILTEAU: It's certainly naive. It's in that direction that the researching and...they think that when

5 MR. FILTEAU: (cont'd.) a fibre is not only locked in but joined with another substance, it is a less dangerous fibre. So the danger could be in a secondary process like, for asbestos cement pipe. The real danger of the fibre would be when they open the bag at the beginning, and then the dangerous part is only there. At the end when it's mixed with another substance, it's really different.

DR. UFFEN: Is this work well-funded?

10 MR. FILTEAU: Well...?

DR. UFFEN: Do the people have all the money that they need?

MR. FILTEAU: Oh, yes.

MR. PIUZE: Easy.

15 MR. FILTEAU: This is IRDA, the Institute of Research and Development on Asbestos, in Sherbrooke, which is funded both by the government and the companies. It has a budget of over two million dollars a year.

DR. UFFEN: Does it have a board of trustees, or something like that?

MR. FILTEAU: Oh, yes.

20 DR. UFFEN: Are there any labour representatives on it?

MR. FILTEAU: On the board? No, I don't think...

25 MR. CASGRAIN: Mr. Chairman, the Board is made up fifty percent government, fifty percent industry in respect of running the affairs of the Institute itself. However, there is a scientific committee completely independent of the Board, which runs its own affairs...that is, decides on research it will do, how it will carry it out. And that Board is made up of a number of scientists representing all levels, if you wish, of activity. Dr. Lesage happens to be on it because he is

30 also on other Institutes connected with the government.

But as far as that is concerned, it works with

5 MR. CASGRAIN: (cont'd.) Doctor Donnegan in preparing recommendations, which are usually accepted, in where they do this research. That particular research has been approved and has been funded to the tune of something like a half a million dollars, recently, and it's well underway.

10 MR. FILTEAU: Mr. Chairman, may I add as regards the Institute of Occupational and Environmental Health in Montreal, that we will be pleased to send to you a copy of all the projects that they have sponsored...forty-two in all... since 1966. It's in the form of a brochure, in the form of a loose-leaf handbook.

DR. DUPRE: Dr. Mustard?

15 DR. MUSTARD: Before I ask some specific questions, you said the Institute of Occupational and Environmental Health in Montreal. That's different from what's in Sherbrooke?

MR. FILTEAU: Yes.

MR. PIUZE: Oh, yes.

20 MR. FILTEAU: This is completely sponsored by the industry and has the same type of organization as the other institute in Sherbrooke, as an international scientific committee which submit their recommendations to the executive committee of the Institute and which are then approved or not by the executive committee.

25 DR. MUSTARD: Is there labour on the Board of the Institute in Montreal?

MR. FILTEAU: No. This is industry-sponsored.

30 MR. CASGRAIN: Perhaps we should establish the following: IOEH, which is the one you just referred to, is medically oriented. It deals only with medical problems as such. IRDA is medically oriented, but also...and I think to a larger extent...in the field of checking the products, ascertaining that they are hazard-free, and things of that nature.

5 MR. CASGRAIN: (cont'd.) So in this respect IRDA is a little more, shall we say, pragmatic and practical, whereas IOEH is devoted specifically to epidemiology such as Doctor Melonde's report, and so on.

DR. MUSTARD: Thank you. I have a couple of areas I would like to ask questions on, Mr. Chairman.

10 I would like to go back to some of your economic questions and ask if you have any estimate as to what is happening to your market for your product. Asbestos produced in Quebec, would there be any change in your sales, what it's being used for and where it's going? What are the trends? Do you have any feel for it?

15 MR. FILTEAU: There has been a considerable change in the last year because of the general economic situation in the States, especially. There has been a decrease of sixteen percent in total production in Canada. Mainly to the States, there has been a ten percent reduction there, and the rest is in some of the EEC countries. But we feel that we can gradually replace this market by the expanding markets in the developing countries.

20 DR. MUSTARD: Do you have any assessment of what the impact of substitutes for asbestos is in the processes in North America, what that's having on your market?

25 MR. FILTEAU: So far, no. But we don't feel that they have found a real substitute equivalent to what the asbestos-containing products represent. Even in brake linings, they say that they have steel bands which will replace the...but they are noisier and they are not as durable as the asbestos brake linings.

30 DR. MUSTARD: Can I pursue you a little bit on the question about substitutes? I think most jurisdictions are taking the stand that a new substance is introduced...

5 MR. CASGRAIN: I'm sorry. Perhaps I should add
for the benefit of Mr. Filteau that in respect of the products
itself it is obvious that there is a tremendous effect on the
production of byproducts of asbestos fibre...in the States,
for instance, where there has been this constant attack against
the industry, and as well in Europe, and the Association has
been extremely concerned with government in Quebec, as well
as in Ottawa, in trying to sort of fight this combat which
is being waged against the industry in Europe as well.

10 To that extent, in short fibre, for instance,
it is becoming extremely difficult for some of the companies
to remain in the business to any significant extent right now.
They are facing a very dangerous problem right now. We can
foresee that the future may be very bad to that extent, and
15 this has been expressed by the companies at both government
levels and in Europe as well, and will be dealt with in a
very substantial and open manner shortly at the World Conference
on Asbestos to be held in Montreal. Problems of that nature
will be discussed openly at that time.

20 DR. MUSTARD: I would like to pursue this a
little bit further in terms of the substitute question. As
jurisdictions apply the use of substitutes for hazardous
substances in general in industrial world, there is a
requirement, of course, that the new substances must also be
screened in terms of whether it's a hazardous substance. The
25 interesting question comes up, there are some substitutes, like
glass fibres that have been introduced for certain things,
which probably have not been screened, as far as I am aware,
in terms of this issue. Do you think that, going to your
statement on page thirty of your brief about animal testing,
etc., which has its limitations...on the other side of the coin,
30 if anything is new there has to be some way of testing it which

5 DR. MUSTARD: (cont'd.) is nonhuman, and animal screening seems very useful in one way, in the views of some people, for getting at this. Do you have any views about the rigor with which new substances that are being introduced, say in replacement for asbestos, should be screened in terms of before they are put into the marketing system?

10 MR. FILTEAU: One question is fibreglass, and Mr. Douglas Ashford mentioned it or discussed it because it has been used for replacement of asbestos fibre in asbestos cement products, but nobody knows the toxicity of fibreglass, or what it will produce twenty years from now.

15 DR. LESAGE: I don't think there is any country at this moment who has put standards on substitutes as they have put the standard on asbestos. For instance, I was, about three weeks ago, in Sweden and in Denmark with the people from the governmental agencies or Institute of Occupational Medicine of those countries, labour departments, and asking exactly the same question. Asking them what do you think about this substitute, do you have any study relating to that to prove that it is not as harmful, or it is less, and they don't have any. They just answered me that they looked those fibres like they were inert fibres. I said, well, there are some studies, one Japanese study for sure and maybe others, that...let's suppose that they are not so inert as you say, but they are countries producing fibreglass. They are not countries producing asbestos fibres.

25 DR. MUSTARD: I see. Thank you.

30 Now, I would like to change to a different subject. I would like to ask you what arrangements management and labour have in Quebec for coping with, in the actual workplace, the question of asbestos and occupational health? Do you have joint committees? Do you have some kind of relationship...I think you implied in your discussion that you have full disclosure,

5 DR. MUSTARD: (cont'd.) etc., in the system, but I would like to have some outline of that, and also I would like to know what kind of system you have for recording each worker that is exposed to asbestos, and tracking that worker, etc., in terms of the long-term followup of individuals that are exposed to asbestos?

10 MR. CASGRAIN: Mr. Chairman, I would like to say, if you don't mind our patting our own back, that when legislation was introduced in Quebec to develop parity committees at the level of the plant, in many respects similar to that regulation introduced in Ontario, the asbestos industry was given as an example of what should be done. Because we have, in the industry, immediately after the Beaudry report and during the Commission, as a matter of fact, already
15 started in the companies working at the parity level. That is, a union nominee would be working jointly with company nominees at, for instance, examining the samples. Also as to determine what steps should be taken to correct the environment. To that extent we have been, the industry, operating on that basis for quite some time now. It is done so openly that in
20 many instances the union itself will offer to train its own nominee, or we will train him. But to date it has been working very efficiently.

I can only say that. It sounds perfect, but it does, as a matter of fact, work very well.

25 DR. MUSTARD: Does a worker have any problem getting access to the records about his health and what he is exposed to?

MR. CASGRAIN: None whatsoever. In respect of his health we have another thing, however, and I think Dr. Lesage should speak on this point. It's a medical problem.

30 DR. LESAGE: Well, you know that the...all workers are examined once a year and they have a complete

5 DR. LESAGE: (cont'd.) information, they have the right to see their files, complete information if they want to have a photocopy of their file and if there is any test that is wrong, if we see..and this I can ask Doctor Lambert or the doctors at the different clinics to come here...if we see any change in the x-ray or in their lung function test, they are well aware of that and we push them to say well, you should ask the Workmen's Compensation Board to review that. As a matter of fact, new way also, because we are sending to the 10 Workmen's Compensation Board all the results and it's the new CSST now, the new Commission, and before it was the Workmen's Compensation Board who were issuing the miner's certificates and they absolutely need that in order to be allowed to work in the mine or in the mill. So they receive every information directly from the doctors.

15 DR. MUSTARD: Could I ask a final question in this area? You will obviously have a large part of your work force that were exposed to high levels of asbestos in the early period. Are there problems in terms of them getting fair and equitable compensation from the Workmen's Compensation Board both in terms of the worker, and if the worker dies, the 20 next of kin?

MR. CASGRAIN: Some four years ago, I think, or thereabouts, a new law called Bill 52 at the time, which is now incorporated into the statutes of the Workmen's Comp., was passed by Quebec sometime in 1975...

25 MR. FILTEAU: 1974.

MR. CASGRAIN: Oh, 1974, which provides for full compensation for the worker who is unable because of his condition, due to asbestosis, to return to work. That has preceded itself into large compensations for cases which dated 30 back to quite sometime, having been exposed away in the past.

Right now we have very, very few of these cases

MR. CASGRAIN: (cont'd.) coming up because of the present conditions in the mine. The compensation is considered to be satisfactory by the unions. We feel it's a price to pay for perhaps what we did not know in years past, but to date I think I can say that is satisfactory. Indeed, the Quebec government is now in the process of considering an Act which would include that type of compensation in a general way to industry. It's very involved at this time. It's at the primary stage only, but it would follow to some extent that particular Act.

Doctor Lesage knows more about it than I do. I should say that the Act also provides for a review at the request of the company and of the worker, of the medical findings of the worker's condition....and pending any decision, compensation is paid forthwith and can only be stopped if, on the final appeal, it is found that perhaps they were not justified.

The Act also provides in principle that the worker should be encouraged to work elsewhere or even go back to the plant if a condition is found in the plant where the environment is such that he can indeed work. We have at least one decision of late, by three doctors, including a union nominee, who agreed in the case of one worker in particular who had ten percent incapacity due to asbestosis, that in his case it was safe for him to return at the plant provided that the working conditions at the present norms were respected.

I should say there has been an appeal from that decision, but the question of principle is there and will be decided in due course by the courts. But I point out that the three arbitrators, the union nominee, management and president, all agreed in that particular case that here was a man who should go back to work in the mill. It is obvious that in the mill a place will be found for him that will be the less...complete

MR. CASGRAIN: (cont'd.) assurance, and evidence will have to be made in this respect, that there would be no excess, or never any overstepping of the norm. And obviously we would find the best possible norm for him.

DR. DUPRE: Just to follow up....

DR. LESAGE: Well, just to...

DR. DUPRE: After you, Doctor Lesage.

DR. LESAGE: I'm sorry. Just to add, to be very clear..and it seems like it's coming like this, it will be like this for any occupational disease, not only asbestosis... it will be for the total system of compensation in the province of Quebec, that there is two parts and it's based on the definition of impairment and disability. For impairment...and I hope I'm not mixing...but there is an evaluation of the percentage of impairment, and there is a lump sum for that.

Then, if because of this impairment the worker can't work or can't do exactly the same work, has a lower wage or something like that...this is on the part of disability... if he loses his job, that's taking a hundred percent, he can't work because he loses his job and he can't find another job at the moment, he is a hundred percent salary...at this moment, ninety percent, but the new law wants to give a hundred percent salary and with the increase that he would have had in the normal life for that part. If he can work somewhere with a lower wage, a lower salary, he has the...the difference will be paid to him. So he is a hundred percent compensated for his salary, plus a certain amount based on the percentage of impairment.

Is it clear?

DR. DUPRE: Just to followup directly, if I might, let us take under the existing Quebec compensation regime the case of an individual worker who has a partial disability pension because of asbestosis. That individual

DR. DUPRE: (cont'd.) then dies of a cause, proximate cause like heart failure or pneumonia, or perhaps even some kind of an immunological reaction. How does the existing regime treat the survivors of that individual?

DR. LESAGE: I should have said before that he is paid like this until sixty-five years of age, what I have explained before. Then after that he is allowed his full pension, because the pension and the regime des rente... how do you say that?

DR. DUPRE: The Quebec Pension Plan.

DR. LESAGE: Yes, the Quebec Pension Plan, but also his own pension, the company pension...all this is paid, and at sixty-five he has the right to this pension. If he died before that, then the widow will receive... until the time he would have been sixty-five...the full pension he would have had. Not the pension, I mean the full...

DR. DUPRE: I see. And that is regardless of the cause...

DR. LESAGE: ...compensation, and then after that then that would be allowed to the families.

DR. DUPRE: Regardless of the cause of death, is that correct?

DR. LESAGE: No, no, no. There has to be evidence that the death was due to asbestosis or an industrial disease...in that case, asbestosis or mesothelioma or whatever it be.

DR. DUPRE: Okay.

DR. LESAGE: There would have to be evidence in this respect.

DR. DUPRE: Well, look, could this...this just leads to the final question that I have and maybe it's something I'm just going to leave with you. I have...I am personally concerned at the moment with the following, if you will, puzzle.

5 DR. DUPRE: (cont'd.) An individual who has
asbestosis may wind up dying from, say, a variety of causes
which might or might not...and that's the puzzle...be directly
or indirectly linked to that condition. Now if I was trying
to, you know, look for some expert evidence, such as it is,
on the nexus between asbestosis and other causes of death,
where would I, you know, go looking for that? Would I go
looking at the same list of experts who by now have become
almost household names to me: Selikoff, Nicholson, McDonald,
10 Kotin, and so on? Or am I looking for a different kind of
expertise? If you don't care to answer, fine. I leave it
with you.

15 MR. CASGRAIN: For Doctor Lesage's benefit I'll
try and rephrase your question so that...you understand what
I'm trying to do?

DR. DUPRE: You have been rephrasing me
beautifully this morning, counsel, and I appreciate that.

20 MR. CASGRAIN: Thank you. I think what you
want to know is whether when the time comes to examine the
case of the cause of death, and whether in this case you
would go to the ordinary doctor or specialist in one field,
shall we say, but not to the experts in the field of asbestosis
as such, such as McDonald, that we've heard of. In other
words, epidemiologists and so on. In other words, what do you
do when you are faced with the fact that someone has died
and you think it may be asbestosis or the widow thinks it is
25 asbestosis or mesothelioma or something else? Which doctor
does one go to and how is that carried out?

30 DR. LESAGE: Well, I don't think that first
these experts you have spoken about can help on that. I mean,
because they are in the epidemiology, this area. The widow
or the workers themselves first have to claim to the
Compensation. There are there doctors that are clinical doctors.

5 DR. LESAGE: (cont'd.) He has to go to see
clinical doctors to first well identify, make the diagnosis of
the disease, and in the law there is a very strong presumption
favoring the worker now. I mean by that that all the occupational
disease, asbestosis or any other, that are on the occupational
annex or list of occupational disease just give a strong
presumption that if someone has a disease and he has worked
in an environment or an industry having that kind of substance,
there is a straight presumption that, say, this disease is
10 caused by that and it belongs, if the industry wants to fight
that, the burden of the proof is just reversed. It doesn't
belong to the worker to prove that. It belongs to any other
party...sometimes the Commission itself, if the Commission
thinks that it is not correct, or it could be the industry
if they think that it is not correct, to prove and to really
15 bring proof that there is no relation between this disease
and the work that he's done and the exposure he has had in the
industry.

But there is a strong presumption and the burden
of the proof is in favor of the worker.

20 DR. DUPRE: That I understand, and your
rephrasing of my question, counsel, was very helpful. But I'm
going to re-rephrase my question simply, frankly, at this stage
because we are getting on, so that I can leave it with you.

Let's take the case of an asbestosis worker
who dies of heart failure. Now in my very fuzzy, layman's sort
25 of way I sense that there could be some expert who would say
to me, there is a linkage between that asbestotic condition
and the death from heart failure because the heart was
overworked in his system.

Now I might well find another expert who would
30 say, well, it all depends what part of the heart failed, etc.

Again, in the case of pneumonia, an asbestotic

5 DR. DUPRE: (cont'd.) dies of pneumonia...there may or not be different kinds of expert opinions as to the linkage. Again, as between asbestosis and, say, death from a condition that was an immunological reaction, let's say...is that all right, Fraser...?

DR. MUSTARD: Sure.

10 DR. DUPRE: ...to some kind of drug treatment that the individual had received. Well, you know, once again there might or might not be some expert opinion out there and what I want to leave with you is that I am very interested in getting some kind of a feeling for where we can find such expert opinions...one way or the other. Is that...could I just leave that with you as something that I have clarified?

MR. LASKIN, did you have any questions?

15 MR. LASKIN: Has your compensation system recognized for compensation purposes that example, as a matter of principle, in one or more cases?

DR. LESAGE: You mean heart failure following asbestosis?

MR. LASKIN: Correct.

20 DR. LESAGE: I don't think so at this moment. It's not on the list that, like I've said, that will reverse the burden of the proof.

MR. LASKIN: It's not one of those things? It will not reverse the burden?

DR. LESAGE: No.

25 MR. CASGRAIN: The Commission has had for years a number of experts who sit almost every month...they are not employees of the Commission, they are medical doctors in Sherbrooke and Montreal and Quebec City, who are specialists in lung functions and so on, and heart specialists. They are called upon from time to time to examine various cases of
30 either people who have asbestosis or of cases where the man

MR. CASGRAIN: (cont'd.) has died. But I have seen from records that we have to deal with if we appeal one of their decisions, if the Commission says, for instance, through its medical doctors, we deem that this man has died as a result of asbestosis, be it as a result of the heart being impaired or not by the respiratory function...if it says so, you have a record normally where it shows the number of years worked by the man, whether he smoked or not and to what exposure he was submitted, and to his general physical condition. This is what we have to work with. In many cases in the past there was no post mortem being accepted by the families. Now, we have more and more post mortems being carried out at the request of the family and of the Commission, under the law there is nothing imposed upon them...and with a post mortem examination normally when you are faced with the result, when an examination of the lung shows an effect, the result of asbestosis, and where it is directly related to the heart, then there is nothing much you can do about fighting the case.

But if you are asking where do you get the experts, they are the normal heart specialists and lung specialists...the best, in fact, that the Commission uses.

There used to be a panel of medical doctors that the Board had. They now go more and more to outsiders, if you wish, that will sit from time to time on various committees, experts all of them, and if you are not satisfied with the decision of the Commission, you can appeal to a revision committee made up here again of three medical experts, one named by each party, and with a chairman who is usually an authority in the matter.

We have found over the time that they are extremely objective in their examination of the cases, be they union or medical nominee or company nominee.

The example I gave you about this Commission

MR. CASGRAIN: (cont'd.) case is an example in point.

5 We find that it's working out well in this respect. In other words, we do not find a problem in respect of evidence otherwise, in this particular case.

I could say we've had extremely few cases of mortality, even claims as a result of mortality due to asbestosis in the recent ten years...very, very few.

DR. DUPRE: Thank you, counsel.

10 MR. LASKIN: Could I just ask one other question that relates to something Dr. Uffen asked before? You have criticized the proposed Ontario time-weighted average standards in your brief, and I take it as saying there is no medical or scientific basis for them, and leaving that point aside for the moment because that's no doubt we'll have to deal with at the second phase, in your opinion does technology exist at the present time to meet that standard either in the primary sector or in the secondary sector or both, and if it does, has your Association done any cost calculations as what economic burden would be imposed to meet those standards?

20 MR. PIUZE: We haven't hesitated to spend all kinds of money to improve the quality of the ambient air, and we will not stop doing it. At present we are doing everything that we possibly can find as far as equipment is concerned, as far as techniques are concerned, to constantly reduce, to constantly improve the quality of the ambient air both in the plant and outside the plant.

25 MR. LASKIN: In relation to my question, and I leave it with you, do you believe the technology does exist to bring the standard down to one fibre per c.c.?

30 MR. PIUZE: No. That's what I said. I said that at the present time it does not...the technology does

5 MR. PIUZE: (cont'd.) not allow us to go down below what we are doing now, and don't forget that the readings that I reported on these charts that the members of the committee have are not related to geographic locations. They are a dynamic type of sampling where the, both the union and the company technicians go around and travel to the plant at the same location where the workers do their normal work.

10 It's equivalent to a personal sampling, and on top of that we have personal sampling on most of the employees.

DR. DUPRE: May I thank you all very much, gentlemen, for this very full morning of dialogue. We are greatly in your debt.

15 MR. FILTEAU: We thank you again for your courtesy in allowing us to review and examine our position before the Commission.

DR. DUPRE: Thank you, sir.

The next presenter is Mr. Terry Howes. Won't you be seated at the presenters' table, Mr. Howes?

20 MR. HOWES: Mr. Dupre, with your permission, may I stand? I feel more comfortable standing.

DR. DUPRE: Certainly.

MR. HOWES: Thank you very much.

25 My name is Terry Howes, and I wish to thank you gentlemen for the courtesy of listening to what I have to say.

30 Could I say, to introduce myself, my family owns one of the two chrysotile asbestos deposits, one of the two known chrysotile asbestos deposits in this province. This is the deposit that our friends from Quebec mentioned in their brief as the one that is in Timmins, Ontario. That's my deposit.

With reasonable encouragement, we have good reason

MR. HOWES: (cont'd.) to think that we have a major world-scale chrysotile long fibre, very rich asbestos mine in Timmins.

5 This, by the way, Mr. Dupre, is the potential competitor you referred to just now. Asbestos, as you well know, is an industrial mineral as opposed to copper and gold which are commodities. It's an industrial mineral which must be sold, and the producers are quite properly jealous of their markets, which is quite an understandable thing.

10 By the way, I was a director of United Asbestos in Matachewan during its recent difficult period. Now I'm not a technical man. Still perhaps a humble businessman can give you some insight into your deliberations. I hope so and I hope that what I can say will be helpful to you in this regard.

15 The asbestos industry is one of the few industries in which Canada is the world leader. We are the top producer in the world. Seven thousand-odd workers work in it, millions and millions are paid in wages and more millions in taxes. The industry is a major foreign exchange earner for this country, because almost all of our output is exported throughout the whole world.

20 By the way, I might say as an aside that Ontario, short of a small mine near Timmins, has no producers at this time.

25 Asbestos fibres are used in the manufacturing of some three thousand products. No other product offers the same advantages. Thanks to asbestos cement products hundreds of lives have been saved in fires in private homes as well as in public buildings. There is no viable substitute for brake lining, and we can't imagine our cars without brakes. It's used in brake and clutch linings, it's perfectly safe. Only
30 a very small fraction of the asbestos present in the brake

MR. HOWES: (cont'd.) lining escapes into the atmosphere.

5 Most asbestos products, in fact, are perfectly safe since the fibre is completely sealed in the mix. The Environmental Protection Agency in the United States has ruled that asbestos cement pipe in water supply systems was in fact less dangerous to health than PVC and other plastic pipe.

10 Thanks to its exceptional properties, asbestos furthers the well-being, safety and protection of all mankind. Asbestos is a natural product which occurs in small quantities throughout the world. It doesn't matter whether we are at the Arctic Circle or in the heart of darkest Africa, there is asbestos in the air. Our lungs are exposed to millions of asbestos fibres during our lifetime, no matter whether from natural or artificial sources.

15 It has been well established that there is a level where there is no toxic effects on the human body, and this level, according to our friends in Quebec who are, let's face it, the world's experts on this matter, is two fibres per c.c. At this level the asbestos worker is not at any greater risk than the population in general. The risk is approximately the same amount of risk that we would take to our lungs by smoking one cigarette or less per day.

20 Now in the Quebec mines during the last two decades, they enjoyed health at least as good as the population at large.

25 Now I'm well aware, gentlemen, as we all are in fact, of the shameful record that the industry had in years gone by. We mustn't kid ourselves on that. Certainly I'm not. But please, don't make us suffer for the sins of those that came before. Really there is a technology in place at present to overcome these difficulties.

30 The proposed Ministry of Labour regulations that

5 MR. HOWES: (cont'd.) say that we must not exceed one fibre per c.c. are impossible to meet. Mr. Laskin here just inquired about that and our friends pointed out that after five years in Quebec, after trying as hard as they could and spending a hundred million dollars, it was impossible to reduce the dust concentration below one and a half fibres per c.c. To legislate down to one would be the equivalent of banning mining in this province.

10 Incidentally, United Asbestos have a sixty million dollar mill on standby in Matachewan waiting to operate. If they had to live up to that one fibre per c.c., it's just down the drain.

15 An asbestos worker inhales one and a half million fibres per working day. A Toronto jogger can inhale one point three million fibres per day. Now to be consistent, the Department of Labour should ban jogging in this city. It shows how absurd it is.

20 You gentlemen will remember three years or so ago when Dr. Selikoff was in town here and he was making some lectures up at OISE. Now, Dr. Selikoff is not what you call a fan of the industry. He is, however, a very fair man. By the way, one of the things he discussed up there was that shocking story of what happened in Tyler, Texas, for which there is no excuse. So Dr. Fan (sic) is a realist, but a fair man. He pointed out that workers who do not smoke are no more exposed to the risk of lung cancer than the population in general.

25 Further, the effect of smoking is particularly harmful in heavy smokers whose mortality rate is four times that of nonsmokers.

30 Gentlemen, I would like to humbly offer you what seems to me like a simple solution to the asbestos problem in this province. Simple solutions, gentlemen, are often the

5 MR. HOWES: (cont'd.) best ones, really. It brings to mind the story of a truck that was stuck beneath a bridge, and a little boy went and pulled on the driver's coat and he said, mister, mister! The driver said, beat it, kid. But he said, listen, I'll tell you how to get that truck out of there. Take the air out of the tires.

10 Well, I want to tell you a simple solution to the asbestos problem: Prohibit smokers from working around asbestos-processing plants...period! They cannot work around asbestos if they smoke.

15 Granted, there would have to be a grandfather clause there for those who presently work in the plants, but they would have to realize the hazards they are running. As Dr. Selikoff put so well, he said, "for reasons which we do not understand...", or at least he didn't understand three years ago..."there is a cumulative effect between smoking and asbestos".
Whatever it is, it's a very bad effect.

20 Anyway, gentlemen, there is a solution for your earnest consideration. It's one way to get around it.

25 There are only two known cement grade chrysotile asbestos mines in this province. One is in Matachewan, owned by United Asbestos, and the other, fifty miles in Timmins.. fifty miles away in Timmins, owned by my family. By the way, there is a road, a reasonably passable road between my mine and the Matachewan mill.

30 The directors of United Asbestos have expressed an interest in processing our ore, so I've got a market for our ore. The Quebec Asbestos Association on page thirty-eight of their brief said that in the northern section of the province of Ontario, in the Timmins area...includes a favorable geological formation which could contribute to an economic production of chrysotile asbestos. I might say this is the

MR. HOWES: (cont'd.) first acknowledgement I have ever had from my friends in Quebec, and I say it with no disrespect to them, that we actually have a mine there. Because remember, it's an industrial mineral and they really don't want us to get into production. But anyway, they don't wish us that ill.

This is my family property, gentlemen. Over a million dollars has been spent in building and in geological work on this property, and many years of work on my part, and a lot of our family money. We have twenty million tons of premium long cement-grade ore in sight, with every reason to believe that the mine would be in ore to a thousand foot depth, which is the maximum for open-pit mining. This would give us over a hundred million dollars a bore worth, at 1980 prices...now incidentally my calculator doesn't go this high...but I'm told that the figure is in excess of two billion dollars.

Gentlemen, can we afford to see a mineral like that sit in that rock? In your deliberations we ask that you consider our interests and those of the citizens of this province, who are the real owners of these minerals. And incidentally, tens of millions of dollars of taxes and royalties would be coming to the people of this province from that ore body.

Gentlemen, please, don't throw the baby out with the bath water. Set regulations within tolerances that we can live with.

Thank you.

DR. DUPRE: Thank you very much, Mr. Howes.

Could I just ask you a quick question? What is the state of the mill at Matachewan right now? Is it completely closed? Is there a skeleton crew there?

MR. HOWES: There is a skeleton crew there, Mr.

MR. HOWES: (cont'd.) Dupre, and they have a pilot plant in operation.

DR. DUPRE: Could you explain to me just what that means?

MR. HOWES: What the pilot plant is?

DR. DUPRE: Mmm-hmmm.

MR. HOWES: It's a miniature asbestos mill where they are trying different methods of processing the ore, including my own ore. So there's actually...I hate to tell you... just a corporal's guard up there. Last time I was up there were two ladies who kind of looked like they could find an Eatons Center to go and do a little shopping at, and a geologist and a mining engineer and a couple of fellows up in the mill. Terrible! Three hundred men used to work there. It's a gigantic facility. It's got sixty million dollars there, ready to go.

DR. DUPRE: Thank you.

MR. HOWES: There's the answer.

DR. DUPRE: Dr. Uffen?

DR. UFFEN: A couple of questions. Did I understand you correctly to say an estimated two billion dollars roughly?

MR. HOWES: Yes, sir. That's assuming that the ore goes to a thousand feet. We have gone down to three hundred and it's in ore, and according to all the laws of geology, there is no reason why the ore doesn't go down, and a thousand feet is the optimum for an open-pit mine...which is the only way to mine asbestos...

DR. UFFEN: Has there been any drilling below three hundred feet?

MR. HOWES: I beg your pardon, sir?

DR. UFFEN: Have you actually drilled below three hundred feet?

MR. HOWES: No, we haven't. But the odds are that the ore...I mean it doesn't disappear at the three hundred and first foot.

5 DR. UFFEN: It would be what is known as reasonably inferred?

MR. HOWES: Yes, sir, that's so. But even if we only have twenty million tons, we still have a viable mine, and that's in sight right now.

10 DR. UFFEN: What would you visualize as the lifetime of such an operation?

MR. HOWES: Many, many, many years. We'll all be dead and gone many years and that mine will still be working.

15 I mean, look at the J-M mine in the Eastern Townships. I mean that's going to go, what, a hundred years or so? One big, big hole in the ground.

DR. UFFEN: Have you made present worth calculations?

MR. HOWES: Present what, sir?

DR. UFFEN: Present worth?

20 MR. HOWES: Oh. It's only worth anything if I can sell it. I can only sell it if United Asbestos can reopen their mill. They can only reopen their mill if you give us standards that we can work to.

DR. UFFEN: It's a common practice to calculate the present worth of a future production.

25 MR. HOWES: Yeah, well, I'm afraid I couldn't take it to my banker, what it's worth.

DR. UFFEN: All right.

This morning we listened, and I hope you were here...I'm not sure...were you here...?

30 MR. HOWES: Yes, I was, sir.

5 DR. UFFEN: There was a very interesting presentation. We alluded to the point that the Quebec Association has been able to achieve one fibre per c.c. for quite substantial periods during the summer months, but they had great difficulty in...

MR. HOWES: I see.

10 DR. UFFEN: I guess then if you were required to operate at a new regulation of one fibre per c.c., you would have to put in a lot more control equipment than your competitors in Quebec, is that the essence of it?

15 MR. HOWES: Not only that, but Phil Melouthe as the chairman of the company and who is a mining engineer of many, many years' standing, assures me that they have tried diligently up there...they've got real experts up in that mill...incidentally, when it shut, it was the cleanest asbestos mill in the whole world. The cleanest. It's brand, spanking new. But anyway, even in their pilot mill they cannot accomplish it. Not that they wouldn't like to, they just cannot.

20 DR. UFFEN: I'm sorry I don't know the history, but may I ask you why did it close down?

25 MR. HOWES: Ahhh...all right. When it was being tooled up, it wasn't operating properly. Mr. Stephen Lewis, the NDP leader at the time, thought that he could get himself some publicity out of this, so he went up there and screamed and hollered so loud that the government had to shut it down. That was at the very same time that there was major financing being arranged through Lasarde Frere in New York.. long-term, twenty-five year financing. When Lasarde Frere heard this, they told Melouthe, 'forget it. We are not going to arrange that financing.' So the Mercantile Bank, which is part of the First National City in New York, called a loan

30

MR. HOWES: (cont'd.) and it was game over. The mill was shut, and it hasn't reopened yet. That's what happened to it. It's a sad, sad story, and so unnecessary.

DR. DUPRE: Mr. Laskin?

MR. LASKIN: Is it the Headman mine that's still operating?

MR. HOWES: Well, if you call it that, yes.

MR. LASKIN: Is it actually producing asbestos?

MR. HOWES: There are two fellows work there.

MR. LASKIN: Do they have any output whatsoever?

MR. HOWES: Two men's output.

MR. LASKIN: That's it?

MR. HOWES: You see, it's very, very short fibre and ecologically has a lot of problems. It's used as filler in plastics and so on, and tiles and whatnot, but their prime market was in the States and that market has largely dried up.

You see, long fibre asbestos is something that is in very, very short supply in this world, and that's precisely what we have in Timmins.

But anyway, they are still there, and good luck to them. I hope they can keep it up.

MR. LASKIN: Thanks, Mr. Howes.

DR. DUPRE: Thank you very much for having joined us this morning, Mr. Howes. I can assure you that your point is properly before the Commission, and I thank you for your written communication.

We shall now rise until two o'clock.

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THE INQUIRY RESUMED

DR. DUPRE: Ladies and gentlemen, if we may reconvene. It is a pleasure on behalf of my colleagues to greet the leader of the New Democratic Party, Mr. Michael Cassidy, MPP, who is accompanied by another member of the

DR. DUPRE: (cont'd.) provincial parliament,
Mr. Ed Ziemba.

5 Mr. Cassidy, we are in your hands, but before
you commence your statement could I just ask a question of
clarification? As I find Dr. Uffen here almost sitting in
my lap, can it be we have an election campaign going on in
the province at the moment?

MR. CASSIDY: Yes.

10 DR. DUPRE: I just wanted to establish that
because we have spent so much time in here we are not sure
what's going on out there.

15 MR. CASSIDY: Well, Mr. Dupre, I was in my
riding on Sunday and Monday and just talking to a few people
in the riding, except there was this constant accompaniment of
other people who wanted to see what was going on. So yes,
there is an election campaign and I suppose it's almost
appropriate that some questions about asbestos be raised during
that time because it's the political system which ultimately
makes the decisions on which your Commission is going to have
to make recommendations.

20 I neglected to introduce Terry Moore, who is
a researcher with the NDP Caucus, who has also played a role
in some of the work that we have done with respect to the
hazards of asbestos, and in fact this morning I went to
Weston Collegiate in the Borough of York, and was taken into
25 the area where a massive cleanup is taking place in that
Collegiate, of some of the asbestos fireproofing that was
installed when the school was built back in the early 1960's,
and they encased us in white suits, they put us in masks and
respirators, they gave us blue gloves, they taped the gloves,
they put bootees on us, or boots, and then we were introduced
30 to the extraordinary precautions which have to be taken just
in order to eliminate the hazard in that one particular school,

MR. CASSIDY: (cont'd.) a job which is going to cost more than two million dollars and a job which indicates the kinds of problems that we have in the province with asbestos, thanks in large part to provincial decisions, provincial regulations, or provincial oversights.

As I'm sure you are aware, the...it was pressure from the New Democratic Party at the political level in the Ontario Legislature and outside, in front of Harbord Collegiate, various other places, which led to the creation of your Commission, of your Royal Commission. We welcome the formation of the Commission and we hope very strongly that it will be a constructive endeavour which will report in an early and tough fashion in order to get action by whichever party forms the government of Ontario after the election, in order to eliminate the hazards of asbestos in the workplace and the community, and in the schools of the province.

The points that I'm making in the brief, and I will go through the brief, although not through every part of it because it's rather long...the most essential points that I want to make are the following: First that there is no safe and no acceptable level of exposure to asbestos in the workplace, in the schools, anywhere where we have control over the levels of asbestos.

Second, workers should not have to die for a living, they should not be used as guinea pigs and a safe workplace is something which we should be able to achieve in the province of Ontario. Workers should not be exposed to asbestos in any way in the workplace.

We believe that it's possible and that we should eliminate workplace exposure to asbestos in workplaces in the province. That's part of our commitment, my party's commitment, with respect to occupational health. That can be done,

5 MR. CASSIDY: (cont'd.) possibly, through engineering controls, but we believe that it is incumbent upon the industry or perhaps on this Commission to show that those engineering controls can be provided and will work to eliminate the exposure. If engineering controls won't work, then we believe that asbestos should be banned and should not be permitted to be used in the province.

10 Finally, we believe that it's the province, through provincial building code regulations, which is responsible for the asbestos which has been used in a wide-spread way in some two hundred or more schools across the province. We think that the program of removal, of encapsulation, whatever is done to eliminate the hazard, should proceed at the most rapid pace possible, and since it was
15 the province that made the school boards put the asbestos in, we believe that the province should be prepared to pay the costs of removal rather than leaving that as a burden on local taxpayers.

20 Over the course of the last years, New Democrats have, of course, had a great deal of concern with occupational health. We have documented many cases where working people have in fact died as a result of exposure to asbestors. Members of our caucus have shown that thousands of school children have been put unnecessarily at risk because the government failed to protect them from hazards of exposure
25 to asbestos, the best-known of all carcinogens.

And we have shown that even when made aware of specific cases of death and disease related to exposure to asbestos, the government has failed to act to protect the fellow workers of those who died as a result of labouring in the same dangerous conditions.

30 We make our submission today in the hope that the Commission will recommend in the strongest possible terms

MR. CASSIDY: (cont'd.) a comprehensive program to protect every Ontarian from the dangers posed by asbestos.

Occupational injury, disease and death is one dimension of the unnecessary suffering of Ontario workers at the hands of employers whose main consideration is profit. The present government has participated in this exploitation through its continued refusal to enact and to enforce legislation which gives workers the powers to protect themselves from such abuse.

We believe the government has also failed to take the decisive action needed to protect the public from environmental exposure to asbestos.

This Commission has an opportunity to act as a bellwether in terms of making recommendations for the treatment of asbestos and of carcinogens in general. It's an area which we are still getting into. It's an area which too little is still known about. But I believe that if the Commission does decide to take a tough stand and to move quickly, if it makes specific proposals to assure the safety of workplaces and public buildings and the general environment of Ontario, you will provide a lead which will be of extreme use to the province in setting down guidelines and regulations and laws with respect to other carcinogens that are hazards in the workplace.

We don't believe that you can undo the damage and the agony of past neglect. We do believe it's possible, however, to immediately begin phasing in a program which will protect the people of the province in the future, and we hope that your report will be both early and tough so that all Ontarians can have a real assurance that they and their children will not be faced with further death and disease twenty or thirty years down the road.

Now, in looking at the debate over asbestos

MR. CASSIDY: (cont'd.) hazards, you are bound to hear some positions that are fundamentally contradictory. We don't believe that there is a middle road when you come to consider the positions that will probably be put, for example, by Johns-Manville when they come later today, and by other representatives of industry, and the positions that are being put forward by New Democrats, by the Ontario Federation of Labour and by groups representing workers across the province.

The reason that the positions differ so diametrically is because the interests of their proponents are so different and they reflect real antagonisms in our society. Corporations that use asbestos to make a profit will tend to downplay the hazards to health and urge less stringent protection to workers, or will argue that while more protection is desirable, it's simply not affordable at this time.

On the other hand, asbestos workers will take the perspective that the goal of ensuring a disease-free workplace demands high standards and demands that they be strictly enforced.

We don't believe that you can somehow compromise on that antagonism, because ultimately we believe the decision about protection from asbestos hazards has got to be a political process, it's got to be a political decision, and the decision is either to do as industry wants and to define what are called acceptable levels of risk at the expense of the health and lives of working people, or to decide that there is enough political will that this hazard can and will be eliminated.

We are concerned about the exclusive use of epidemiology as a guideline in determining what your recommendations are going to be simply because body counts twenty years after the events where people contracted asbestos-related disease, if that's used as your standard that

MR. CASSIDY: (cont'd.) for decades workers who may be at risk will not be able to have protection. The idea that some scientists, and I suspect that some industrial spokespeople will put forward, that until you are absolutely sure that there is a risk there, you should not be prepared to make recommendations, effectively would put another generation of workers...and possibly also of teachers, school board workers and students...at risk. We believe that the time to act is now rather than waiting for twenty years.

I am also concerned that some seductive arguments may be put forward that in fact don't, in our opinion, hold water. The suggestion, for example, that we shouldn't come down too hard on the asbestos question because that might cause panic among certain people, I think is a self-serving argument which has been used too often in the past in order to avoid the need for tough action.

The suggestion that the employer's obligation to provide a safe working environment has got a limit, and that after a certain point it's the employee who is responsible doesn't hold any water in the case of asbestos. This isn't like saying that a worker has got certain responsibilities not to put his or her hand into a drill press. The worker has to breathe, and if there are dangerous asbestos fibres in the air where that worker is working, the worker can't help breathing them, and therefore we don't believe that that argument holds water. We don't believe that workers should be placed in a situation where they must rationalize health risks in their everyday lives for the sake of progress or for the sake of having a job.

In carrying on your study over the course of the next few months...I hope it is a very few months...we think that you should look at the distribution of health risks and the distribution of profits from the enterprises to see whether

5 MR. CASSIDY: (cont'd.) that distribution is acceptable. Do the people who get the profits also carry the health risks, or is it the case that workers get wages rather like any other industry, but carry the vast bulk of the health risks, whereas the profits go to a group of people who carry little or no health risk?

10 I suspect that you will find that there is a severe imbalance between those who get the profits and those who take the risks.

15 We believe that decisions about establishing so-called acceptable levels of risk, if any such decisions are to be taken, should be done with the approval...with the approval...of the people who must experience those risks. That, of course, has not been the case in the past. There has been a pattern of arbitration where various parties, the unions, the workers, the community, environmentalists, and the companies are all consulted and asked to have a say, but then ultimately when the decision is taken it may well, and often has been, a decision which is injurious to the health of workers.

20 We happen to think that workers who work in environments where they are at risk are just as competent in judging what the risk can be in making those assessments as experts who don't have to work there, but are making some of those assessments from a distance.

25 We are very concerned at cost and benefit analysis if the costs that are being put into the equation are costs expressed in terms of asbestosis, in terms of cancer, in terms of death; whereas the benefits are those expressed in terms of economic production or in terms of profit. So the idea that you balance the cost to industry in terms of profit against the risk to exposed population, is

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MR. CASSIDY: (cont'd.) one that we find extremely difficult to accept.

5 As I quote in the brief, there is the general scientific principle that any substance which causes cancer in animals or in humans has a threshold...I beg your pardon... has no threshold because somebody exposed to it is going to... in the working population...is going to contract cancer, and that's the basic argument we make in saying that there is no safe level, and that, I believe, is now backed overwhelmingly
10 by the opinion of a large number of scientific experts in this particular field. I, of course, appear not as an expert, but as a politician. A politician, however, whose party has been pressing for action on the question of asbestos for a very long time.

15 The New Democratic Party bases our approach to the question of the regulation of carcinogens on the principle that there is no safe level. Since we believe that no one should be occupationally exposed to any substance which may lead to disease, to injury or to death, we take the position that there can be no acceptable level of exposure to a
20 carcinogen.

The brief includes a number of quotations which in fact come from ministers such as Doctor Elgie and Doctor Stephenson, that essentially say the same thing, that there is no safe level below which it's okay to be exposed.

25 In practice, however, the government has not acted on that principle. In practice, both the government and corporate producers and users of asbestos have been negligent in their handling of virtually every aspect of the asbestos problem. They have willingly traded off the protection of health and safety for the protection of production and profit.

30 If the Commission comes to agree with our belief that government and industry have been negligent, then

MR. CASSIDY: (cont'd.) recommendations must be made which will assure the public that the underlying causes for this deplorable record will be removed.

5 It's now sixteen years since the first recorded asbestos-related death of a worker at the Johns-Manville plant, and yesterday you heard the death toll is now up to forty-two. It's now half a century or more since the fact of the existence of a major health hazard through exposure to asbestos has been known in the scientific literature...and in fact has
10 been known within the industry itself despite their efforts to conceal the fact. It's a tragedy, it's a catastrophe. These are deaths that should not, that need not have occurred. Johns-Manville is not the only plant in Ontario. There's Bendex, there's Raybestos, there's a whole series of plants where this has been occurring.

15 The government recognized this along the way, but clearly has not acted to protect the workers, let alone properly inform them either through their employers or else through the political system, and we think that this Commission should, in your report, look to the political, the economic,
20 the institutional...or dare I say the ideological barriers which allow the situation to develop and which led government to fail to act and to inform workers and to protect the workers.

We think that the Commission must search for answers to these kinds of questions if it wants to be of any real assistance to those who are struggling for safer
25 workplaces in their continuing efforts to translate recognition of hazards into concrete action.

30 If that's not done, then there is the danger that those cynics who greeted your Commission's formation with skepticism will be proved right. There is the danger that this Royal Commission's report will join the hundreds of others in Canada and in Ontario which have been left to gather dust

5 MR. CASSIDY: (cont'd.) on the bookshelves without having any real impact. The problem of asbestos as a health hazard is too important, in our opinion, to have a Royal Commission with the potential clout of yours with a report left to moulder on the bookshelves.

10 I urge you, we urge you to adopt an approach of looking at the various cases just to see what the barriers have been, and to draw some common themes about where those institutional barriers come and how they can be overcome.

15 We ask you to examine some of the controversies such as Johns-Manville, which has gone on for so long; such as the closure of the asbestos mines up north; such as the deaths of school board employees such as Clifton Grant and Ken Gardner here in Metropolitan Toronto, in order to have some insight into why the actions that were taken were taken, or why there was failure to act.

20 We believe, therefore, that the Commission has got to take an active posture as opposed to simply relying on voluntary briefs or submissions. I understand from our discussion just before now that you will be calling expert witnesses, as will the parties to the Commission, and I presume that some of that will take place at that time. If that's the case, we believe that's positive.

25 I want to touch briefly on our recent experience around the issue of asbestos in the schools, because this is just one of the kind of case studies or case histories that illustrates the kind of problems that we have seen in the handling of the asbestos problem. In the first place, this is a classic example of an area where occupational health and environmental health are intimately interlinked. It's occupational health if you are a school board janitor, a secretary or a teacher or a construction worker doing work around the schools. It's environmental health if you are a

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MR. CASSIDY: (cont'd.) school child or if you are a parent with a child who will spend fifteen thousand hours in Ontario schools over their lifetime from kindergarten up to the end of grade thirteen. That is equivalent to many years of working life at a time when they are particularly susceptible to the asbestos because kids are growing at that particular time.

Measures taken to protect workers in the workplace in the schools will result in protection for people outside the workplace, that is students, and we believe that measures taken to protect workers in industrial workplaces will also protect people outside of the workplace.

To begin with, we are alarmed by the lack of communication between the Workmen's Compensation Board and the Occupational Health and Safety Branch with regard to compensation claims by school board employees. That was not done in 1979, at the time of the death of Clifton Grant in the Scarborough Board of Education, despite promises a year or so earlier in an unrelated case of a death from a somewhat different cause where we were promised that that kind of contact would in fact take place. We think the Commission should find out why, and we think that the Compensation Board has an important role to play in identifying health problems so that remedial action can be taken by the Ministry of Labour. We suspect that the potential benefits of such co-operation are, to put it mildly, not be maximized at the present time.

If we have a responsible government in the matter of asbestos, then subsequent to discovering that a worker has contracted an industrial disease they will take a close look at that worker's fellow workers and the working conditions they are in, to see if something needs to be done to determine further exposure.

Now, had that been done, some of the problems in the schools might have been smoked out as early as four years

5 MR. CASSIDY: (cont'd.) before they first came to public attention. We have been arguing consistently for several years that there should be a registry of workers that have been exposed to asbestos, in order to ensure that workers can be contacted should an asbestos-related disease develop among somebody who was a workmate often fifteen or twenty years before because of the time it takes for asbestos-related diseases to develop.

10 Such a registry was promised by the then Minister of Labour, Mrs. Stephenson, in 1977. To our knowledge, it has still not yet been created and certainly none of the affected unions have been consulted about the creation of such a registry, despite promises that were made by the present Minister of Labour, Doctor Elgie.

15 We think that the lack of speed with which government has moved on this issue does very little to instil confidence that they are treating the matter with any degree of seriousness or sense of urgency. In addition, we think that the manner that the government, through the Ministry of Education, has responded to the asbestos problem in the school system suggests that there is a lack of a sense of urgency and seriousness which runs against the potential problem posed by asbestos. We think it shows that the Ontario government doesn't have the political will to take the bold steps that are necessary to deal with a carcinogen, with a cancer-causing dangerous substance which can be found in so many places in our society.

25 It is now more than a year and a half since the Ministry of Education sent out the first directive requesting that all school boards survey their facilities and report back to the ministry on the extent to which asbestos was present and the plans they had to find a remedy. That directive went out in July of 1979, and the deadline for response was August 31,

MR. CASSIDY: (cont'd.) of 1979. But as of April of this past year, seven and a half months later, a quarter of the school boards across the province, responsible for a third of the schools out of the province, had not yet complied with that particular directive. I don't know what the present situation is. We are still waiting, in fact, to hear, but that in itself speaks to a lack of a sense of urgency from the government. The government had to be pressed and harrassed into the point that they actually set up your Commission.

We have compared in the brief some directives where the Ministry of Education really meant business, like telling people not to charge for supervision at school lunches, compared with the so-called directives with respect to asbestos. The asbestos directives had nothing like the same sense of urgency. They were polite requests.

Very little guidance was given to boards by the province in terms of what they should do about finding out their asbestos problem, in terms of handling the testing procedures, in terms of getting the test results in. There were delays in boards receiving the directives, the manuals on how to do inspections were delayed. There was, right along the line, a sign of the kind of disinterest on behalf of the Ministry of Education in really coming to grips with this particular question, and that in turn has led to an unevenness of implementation across boards, and unnecessarily prolonged exposure to the hazards of asbestos for school children.

At this point I think it's fair to say that it's impossible to say how much it's going to cost to clean up the schools. Back in the spring, the Minister of Education sent me a reply saying it would cost the ministry about three or four million dollars for the asbestos cleanup across Ontario. In fact, the one school we visited today will cost two point

MR. CASSIDY: (cont'd.) three million dollars.

5 The City of Toronto, the Board of Education of Toronto, is
estimating that their cleanup alone will cost something like
eighteen million dollars, and I believe that figure may in fact
be raised at their meeting tonight. The latest estimate the
ministry is letting out is eighteen million dollars for the
whole province. Goodness knows where it is. It's a sign,
however, that they have not yet come to grips with the extent
10 of the problem, the extent of the hazard to students, and
how quickly it can be cleaned up.

If I can just give one other anecdotal example,
in the Windsor School Board it wasn't until August of 1980, a
year after the first directive from the ministry, that the
Windsor School Board put somebody to work to start to inspect
15 its schools for asbestos. For ten days the worker wasn't even
given a copy of the manual "Inspecting Buildings for Asbestos",
and when the worker raised the issue through the union, instead
of being praised for the diligence in protecting workers and
teachers and students in the Windsor schools, the worker was
disciplined and grievances had to be filed...once again a sign
20 of the fact that the problem is still not being taken, is still
not being taken seriously.

Frankly, we are worried that a thorough and
proper job is not being done in the schools. We therefore
urge the Commission to investigate how the schools program is
working across the province. We urge you to travel to various
25 locations and get the information directly from the board employees
who are doing the remedial work, rather than simply relying
on bureaucrats and on trustees.

Subsequent to that, we believe that you will find
that there is a necessity for the province to directly supervise
30 the activities of local boards in order to ensure that every

MR. CASSIDY: (cont'd.) student, parent and school board employee has the same high standard of protection from the hazards of asbestos right across the entire province. In other words, there should be an agency within the Ministry of Labour or the Ministry of Education responsible for supervision, responsible for ensuring that the cleanup is taking place in the schools, that the funding is available and that the job is being done. And until that's in place, I'm afraid the present haphazard cleanup of the schools is all that we are going to get.

At Weston Collegiate today, concern was expressed to me that the standards being used there, which certainly appeared to be very high, might not be followed in the cleanup of other schools, and thereby posing unnecessary hazards to students and other people who work both in the cleanup or work in the schools. That's one of the kinds of problems we face with the present haphazard kind of approach.

We believe in addition that since it was provincial regulations that required the use of asbestos for fireproofing, for fire dampers and so on, that the province should be prepared to take the responsibility for paying for the cleanup of conditions that its regulations created, and rather than insisting which local school boards which are already strapped both for capital and operating funds because of provincial cutbacks, rather than insisting that they bear between forty and sixty percent of the cost of the asbestos cleanup, an insistence which is bound to delay the cleanup, we think that the funding should come through the provincial government in order to ensure the most rapid possible cleanup of these conditions where they affect schools and where they affect students.

With respect to occupational health, your Commission is going to be looking very seriously, I'm sure,

MR. CASSIDY: (cont'd.) at the concept of threshold limit values, and whether that is appropriate for the use of asbestos or not. A year or so ago we were recommending to the New Democratic Party that the TLV of perhaps point one fibre per cubic centimeter could be an acceptable limit. We have changed our mind. We don't believe that any TLV is an acceptable level of exposure, and when you look at what those threshold limit values actually mean, you can see what I mean. One fibre per cubic centimeter is not really a one-fibre standard at all. That is equal to about eight million asbestos fibres of more than five microns in length, exposure for the average worker in an eight-hour day, or forty million in a week. According to the estimates that I've seen, when you bring into account the shorter fibres of less than five microns in length, shorter fibres which I understand can have an equal or even greater hazard for health because they can get through the different defences of the body and into the lungs, you are talking of a one fibre per c.c. standard in fact being something like a four hundred million fibre standard over the course of a working day. If you said to a worker, are you prepared to work in a workplace where you are going to get exposed to four hundred million fibres of asbestos when it's so dangerous, every working day, and do that year in and year out? Most workers would say, no way. I don't think that's fair, and we don't/^{think}that's fair either.

The rationale which the ministry has put forward with respect to the threshold limit values talks about acceptable levels, levels that can be accepted without undue risk to health, and then talks about providing an exposure level at which no harmful effect is produced in the worker. In our opinion, those two concepts are contradictory, although in fact we found them quoted on the same page of on the Ministry of Labour documents with respect to threshold limit values.

5 MR. CASSIDY: (cot'd.) It's clear from the Ministry of Labour's publication "Asbestos in Public Buildings", which came out last March, that the government recognizes that it is not possible to establish a level at which no harmful effect is produced in the worker, and therefore, working on the rationale that the ministry itself has produced, we don't believe that any worker should be exposed to asbestos in the workplace at all. The statements put forward by the ministry

10 itself back that up when they say, and I quote, "There is

currently no scientific basis for establishing any level of exposure as an acceptable guideline." When they say, and I quote, "Even a brief exposure may cause mesothelioma thirty years later, after exposure". When they say, and I quote, "However, as with all other

15 carcinogens, safe levels of exposure to asbestos are unknown".

Now, those opinions are also in consonance with the studies reviewed by Doctor Atherley on behalf of this Commission, and in the report that came from the Americans. They say it specifically: "Evaluation of all available

20 human data provides no evidence for a threshold or for a safe level of exposure".

That's why we're in fundamental disagreement with the proposal of the Ministry of Labour right now for a level of one fibre per c.c. for chrysolite (sic) and lower levels for crocidolite and the third kind of asbestos.

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Our experience leads us to agree with the point that's made, that the balancing of the cost to industry and their profits, and the risk to exposed populations, is at the heart of the matter. Simply put, the government appears willing to accept a certain number of cancer deaths in the interest of

30 continued production and profits. The New Democratic Party

MR. CASSIDY: (cont'd.) condemns that as a callous disregard for human life, and we call on the Commission to do the same. We believe that exposure to asbestos must be eliminated. We think the Commission must determine that this goal can be guaranteed by the use of engineering controls, but if the elimination of exposure can't be guaranteed by this route, then we believe the use of asbestos must be banned in Ontario.

We fully recognize that the phase-out of asbestos use would create problems for workers and others, and we have put forward some proposals to deal with these problems.

What Ontario needs is a comprehensive program to eliminate, as quickly as possible, further occupational exposure to asbestos. This means either the elimination of further exposure through engineering controls, or else it means the banning of further protection.

The action would have to be phased in through compulsory substitution of safe alternative substances or products, and through the relocation and retraining of any workers who will be either displaced or left without the skills needed to ensure continued employment. Even if workplace exposure can be eliminated, we believe that production of products containing asbestos should only continue if release of the asbestos to the environment is not possible either during or after use.

While that is being phased in, we have some specific points where we believe action should be recommended and should be taken now, and we would like to see them in an interim report from your Commission.

There should be an immediate re-evaluation of the Workmen's Compensation Board's special rehabilitation program for asbestos workers to determine its effectiveness in protecting workers who already show signs of exposure, with specific emphasis on the criteria for removing the worker from

MR. CASSIDY: (cont'd.) exposure and protecting the worker's right to employment and comparable income. I think it's a scandal that before Johns-Manville closed down there were some forty workers who had known exposure to asbestos dust who were continuing to work, and I believe thirty or so who were on disability pensions, but still working in the company while they were receiving disability pensions because of their exposure to asbestos.

We should like to see the institution of a program to encourage workers who show signs of asbestos exposure to transfer to other jobs at comparable pay instead of encouraging them to continue to work at the place of exposure while getting partial pensions.

We think the WCB should immediately halt its practice of denying a pension to the spouses of workers whose deaths are related to an asbestos disease or condition, but where there is some other immediate cause of death such as a heart attack. We think there should be a comprehensive effort to trace all workers involved in substantive asbestos-related employment in Ontario over the past forty years so that they can be alerted to the possible dangers to their health and have their conditions evaluated.

We believe that in the interim there should be, until you can get the total elimination of workplace exposure, there should be an immediate reduction of the threshold limit values to the lowest measureable values that you can get to.

Finally, we recommend that a government-funded educational program be produced in co-operation with the unions to inform all asbestos workers and their families about the potential health hazards of asbestos so that the need for urgent action is understood, and hopefully supported by the vast majority of those affected.

We make recommendations as well about phasing

MR. CASSIDY: (cont'd.) out production of new commodities which contain free asbestos, or those from which asbestos fibres can be dislodged.

There is the need for an educational program to alert consumers to the hazards posed by products where asbestos is involved.

There should be a program to provide assistance to the public with identification, with encapsulation or removal, and with the disposal of products or in situations where asbestos hazards may exist.

With respect to buildings, we know that people will continue or may continue to be at risk in buildings where asbestos has been used, but that's an area where the scope of the problem is only beginning to be discovered and we believe that the Commission has a responsibility to establish just how great that problem is so that we can begin to act in that area too.

We believe that the Commission should establish whether the ban on the use of asbestos in construction in Ontario is a reality, or whether there are still loopholes such as the use of the asbestos fireflaps that we discovered and had changed in the legislature last spring.

We believe that the Commission should investigate the extent to which asbestos used in construction poses a threat to health, and also whether encapsulation is a safe technique or whether in fact removal is the only safe technique when asbestos hazards in buildings are involved.

We believe there should be a registry of buildings containing asbestos so that people know exactly what kind of hazards they may be getting into, and of course we believe that safe disposal has got to be mandatory wherever asbestos products are being disposed of.

I want to conclude by thanking the Commission, on

5 MR. CASSIDY: (cont'd.) behalf of the Ontario
Caucus of the New Democratic Party, for the opportunity to recount
some of our experiences and to express our concerns about public
policy and about the health and safety hazards that are posed by
asbestos.

10 Unlike some other risks that people face on a
day-to-day basis, there is nothing accidental about workplace
exposure to these substances. If it's in the workplace, and
you're there, you cannot avoid it. Someone has decided to put
those workers or the public at risk, and we believe the
Commission must ensure that its recommendations, if implemented,
will be sufficient to eliminate the health hazards posed by
asbestos.

15 As I said before, this Commission has an
opportunity to lead the way in how we should deal with
carcinogens in the workplace and in the environment in Ontario,
and I trust that will be the responsibility you accept
rather than writing a report destined just to sit on a shelf
and to gather dust.

20 I would like to conclude by reading a passage
from a recent book entitled Cancer and the Worker: "The
real issue in occupational cancer is not so
much if we can prevent it, as whether we are
willing to prevent it. Occupational cancer is
a social disease, a disease whose causes and
control are deeply rooted in the technology
25 and economy of our society. Prevention of
cancer is largely an obtainable goal, but it
requires the co-ordinated effort of all parts
of society...government, the scientific
community, industry, labour and an informed public."
30 If we are to protect students and workers, we
need most of all the will to do so, and as I am a politician

5 MR. CASSIDY: (cont'd.) and as this Commission is making recommendations to the government of the province of Ontario, I think that we have to and you have to focus on the question of whether there is enough political will to do the job. The New Democrats are determined to see that workers are protected from asbestos hazards, that students and the public are protected from asbestos hazards. We trust very much that that will be what your Commission takes as its job as well.

10 Thank you very much for having us here today.

15 DR. DUPRE: You are kind to thank us for having you here today, Mr. Cassidy. May I say on behalf of my colleagues that we have a great debt of gratitude to you and your colleagues. It is a matter of record, of course, that we had scheduled this appearance and indeed had your most challenging and comprehensive brief on our agenda, long before the events that neither you nor I had anything to do with, but undoubtedly have brought such lights and glamour onto...

20 MR. CASSIDY: Even Mr. Davis didn't know what was in that brief.

DR. DUPRE: That's what I understand, too.

25 But if I might just perhaps make one preliminary remark rather than even pose a question, I did note in your presentation, Mr. Cassidy, your simultaneous exhortation for us to (a) do the job thoroughly, and (b) do it as quickly as we can. I think that you are entitled to as honest a statement from me on that one as I would give to you on the 20th of March if you were Premier and if you asked me, and that is, okay...there's some bad news and there's some good news. The bad news is that this Commission, to do the job, does not foresee being out of the trenches completely until the end of the summer of 1982. That's the bad news.

30 The good news, to the extent that it's good news,

5 DR.DUPRE: (cont'd.) is that of course this Commission is very open to the possibility of issuing some interim reports and indeed has taken very seriously certain submissions that have come in requesting us to give early attention to certain subjects. So this has already been a matter of public record, of course, but I thought I should share it with you at this stage and thereby if you are premier on the 20th, you don't have to come to me for the information you already have and you can pursue other duties.

10 Could I, having explained our timetable, one to which Royal Commissions in many ways being ponderous animals, are condemned, could I perhaps open up one area of questioning that is very central to a number of points that you have made about the school program. I appreciate very much the reasons for the sense that you communicate that this should be done well, it should be done in accordance with some standard criteria. I would like to supplement the concerns you have expressed with the point that was made yesterday by the Ontario Federation of Labour in their presentation, which is that if proceeded with too rapidly and in a pell-mell fashion, there is a danger that the school asbestos control program, which of course is designed naturally to protect those who are exposed to the interior environment of school buildings... there is danger that this school program could create undue occupational hazards to the workers who are involved in the control operations. Now I have noted in your brief on page twenty-one, the underlined portion of the paragraph on that page that riveted my attention. I noted the comment,

25 "If the Commission cannot be assured that the use of encapsulation techniques will eliminate the possibility of further exposure, then removal will be the only acceptable course of action".

30

DR. DUPRE: (cont'd.) Now, as I'm sure you are aware, Mr. Cassidy, encapsulation, isolation, removal are, if you will, optional control techniques. It is alleged by some that encapsulation techniques may perhaps occasion lower occupational hazards to the control workers than removal.

Of course again, on the other hand, it's alleged by other parties that encapsulation simply creates greater hazards for removal workers downstream.

I guess the point that I would be interested in your reaction to would be the following: Is perhaps a major reason for paying very close attention to how the school asbestos control program is managed precisely to try to minimize the occupational hazards that the removal workers could be exposed to if the choice of technique is made poorly?

MR. CASSIDY: Well, I think you are putting up a false choice there, because you are suggesting that the choice is encapsulation, which has downstream risks because in five years or ten years encapsulation may cause or provide some of the hazards we encounter today, or occupational risk involved with removal. The occupational risk of removal comes when you don't do the removal very well. Doing the removal well is going to cost more money, and as we saw today up at Weston Collegiate, in fact it can be quite difficult because of the need to isolate the areas where you are doing the removal, to cover all the surfaces with polyethylene sheeting. Up there they use a negative air pressure system to prevent any asbestos which has been floating free in the air while it's being removed from blowing out into the rest of the school building, which is occupied by students. Now that's an expensive means of procedure, but nonetheless they certainly seem to be doing a great deal to ensure that workers are not exposed to hazards because they are involved in the removal, and they seem to be indicating that you can

MR. CASSIDY: (cont'd.) protect workers from those hazards...and obviously we believe that you should... when we talk about political will, then part of the political will is being prepared to say well, it may cost something extra, but we are going to make sure that the solution that is found is a lasting solution rather than one that...you paint some dope on the fire-protective coating that was put there fifteen years ago and that will last for awhile, and hopefully the political storm will blow down. That, I'm afraid, is what the encapsulation argument is really all about. It's about saving money and getting over the problem until people perhaps focus on another issue.

In our party, we would like to see the problem solved once and for all so it doesn't come back to haunt us.

DR. DUPRE: That point is well taken. Why did your brief, however, ask us specifically to look at encapsulation as an alternative to removal?

MR. CASSIDY: I don't pretend to be an expert in terms of...in fact, we are just developing expertise in this province, in this country...in terms of protection from asbestos, and so for example there may be particular situations where encapsulation is appropriate. I don't know. Enough questions have been raised about it certainly for people to know that the kind of catch-as-catch-can encapsulation is almost worse than leaving the situation as it is right now. So I'm suggesting that this is one of the things that, after you publish your interim report, perhaps the Commission could get down to finding out.

DR. DUPRE: Dr. Uffen?

DR. UFFEN: Could I follow up on this urgency question in the schools, is what I have in mind? You made a good point, put emphasis on the importance of engineering controls. Would you like to give us your views as to how

5 DR. UFFEN: (cnt'd.) these engineering controls
should be established? What I have in mind is a government
agency, if so, which one? Independent body, if so, how would
you like to see it organized? I'm thinking about what the
British did. The British have an advisory committee with a
number of panels. On the panels they have a cross-section.
Membership represents the wide community...labour, manufacturers,
ordinary citizens. Then a little bit about the time. You
see, you can't really do that properly if you are thinking
10 in terms of a few months. Now that's the first part.

The second part of the question is a little
more practical one, is...the timing of any program, whether
it's encapsulation or removal, in the schools, to co-ordinate
it in the summer months when the students are away, you are
not going to expose them to the possible hazard or the
15 dislocation that goes on. Now that only gives us a couple of
months a year. What would your reaction be to those two?

MR. CASSIDY: If I was told, on the second
question, that by working in the summer months we could
eliminate the asbestos hazards in schools, but it would take
us seven years; but if we worked the year around that there
would be some dislocation and possibly some additional costs,
but we could do the job in two years or two and a half, I
would certainly say that we take the latter course and we move
with the sense of urgency I suggested earlier. Only to work
in the summer months may be more convenient for school boards
25 because that's when they normally do their regular maintenance
and it's easier to work in the schools without students
present, but it means that some school children and highschool
students could face as many as four or five years of additional
exposure to the health risks posed by having asbestos in their
school environment.
30

DR. UFFEN: Suppose we could work out an

5 DR. UFFEN: (cont'd.) engineering control that visualized encapsulation just for long enough to see that this stretched-out removal program could be implemented; not encapsulation indefinitely, so that the students would be protected during the winter months when they are in the building and then have a careful implementation at a more regulated pace?

10 See, I'm concerned...you mentioned in your brief about the reports from Ontario Research Foundation, Doctor Pinchin?

MR. CASSIDY: Mmm-hmm.

15 DR. UFFEN: We visited ORF because we felt that they were relatively independent organization, and they impressed us with their view that some of the work, because it was being done too fast, was not being done properly.

20 MR. CASSIDY: Well, as I said early on, I would caution the Commission to take all of those kinds of recommendations with some hesitation and with a bit of a grain of salt, particularly if arguments like that come not from a body like the Research Foundation, but come from industry. Because so often in the past the argument that 'not now', 'it's not the time', 'we've got to go slow', have been really self-serving arguments on behalf of industry more concerned about profits than about the health of the workers that they are responsible for.

25 You asked whether, should there be a means, an engineering means to provide, say, through encapsulation, protection for say four to six years while a more measured program of removal took place, should we look at that. The answer of course, is yes, provided that all of the parties that are affected...including parents, representatives of
30 the workers involved and the teachers involved, as well as the school boards and government...can be satisfied that

5 MR. CASSIDY: (cont'd.) those temporary solutions are in fact effective. That's why we have said with respect to the workplace as well the question that you should be addressing is that there should be no exposure to workers, and there are two means of...

10 DR. UFFEN: They are going to get exposed if you are going to remove the asbestos in a building. The exposure can be kept small, smaller and smaller and smaller, as best you can, but they are going to be exposed. I don't see how a worker who goes in to remove it is not going to be exposed.

MR. CASSIDY: Well, you should have seen me in my white suit today.

15 DR. UFFEN: It's not a very good way to work, is it, all tied up? It makes it difficult to do.

MR. CASSIDY: It makes it difficult to do, that's right.

DR. UFFEN: Could you...the first part of my question about who should set the standards..do you have any views about that?

20 MR. CASSIDY: I think that the setting of standards has got to be done on a co-operative basis. I think that the representatives of workers must be involved and their opinions must be given very heavy weight. I said before that it's not a matter with respect to engineering, of setting standards, it's a matter of the responsibility is on the Commission or on industry itself to show that it is possible to carry on processes that use asbestos without there being any exposure. They are the ones who have got to be able to prove it's safe, rather than the other way around. Of course, that's not been the practice that we have followed in the past. The question of how do you get independent advice on these things? Well, you can, as in

30

MR. CASSIDY: (cont'd.) any other matter where you are looking for independent people, there are processes by which to seek independent advice and you do your best, whether you are choosing judges, labour relations mediators, or scientific advisors. I would beware, as I think was told you yesterday, anybody who comes too closely affiliated with any particular interest, particularly that of the companies.

DR. DUPRE: Dr. Mustard?

DR. MUSTARD: I have two quick questions. The first one is one that may or not be a complicated one for the Commission, but you raised the question in your presentation, and it's the question of asbestos exposure in buildings other than schools. If it was regulations got us into the use of asbestos in buildings in the fifties and sixties, and in the schools' case you feel the government should bear the cost, what do we do, or what views do you have about what we do with other buildings, private and otherwise, which also were built under similar kinds of regulations, in terms of bearing the costs of adjustments of asbestos in those buildings?

MR. CASSIDY: We don't know the measure of the problem right now, and I hope that the Commission possibly will be able to determine that. It's impossible to say, in other words, what we are looking at, but I would assume that the average apartment or home, or even office building, is not subjected to the same kind of wear and tear and pounding that a school building will get, and I suspect as well that the students in particular in a school building, because, you know, eight hundred million, four hundred million fibres per day for a school child is even more of a risk than it is for an adult, at a time when the school child is growing. There is a particular urgency in acting with respect to the schools. I suggested that there needs to be public assistance for the private sector, for homeowners and apartments and so on, in

5 MR. CASSIDY: (cont'd.) terms of finding out what's happening, in terms of having a registry of buildings where asbestos has been used, in terms of working out the techniques for removal or possibly for encapsulation which can be used there in order to eliminate any hazards. At this stage we suspect there may be hazards, and we've got to find out what they are.

10 DR. MUSTARD: That leads me to my second question. The communication workers, in their presentation yesterday, indicated to us that there were smaller telephone exchanges in this province in which, for example, there were in their views asbestos hazards, and there are members of the work force that have to go into these buildings, and it seems to me that that is an issue which one cannot avoid facing up to and may be just as significant for those people as schools.

15 MR. CASSIDY: Mmm-hmm.

20 DR. MUSTARD: But that raises my second question. In our question with these people, we found we got into the federal/provincial jurisdiction in this area... communication workers coming under the federal law, Bell Telephone, etc., and it seems to me...I would like to pose a question...in trying to cope with the worker in this province who may come under two jurisdictions, have you any thoughts as to how one might get more effective co-ordination between the federal and provincial government in this area?

25 Indeed, what....in other words, if the province has a stricter standard, should that not be the standard for the worker and how would you achieve that in terms of the federal/provincial relation?

30 MR. CASSIDY: The answer is yes, I think that those kinds of standards and the co-operation should be achieved. One way to do it, of course, is to perhaps elect...

5 (REPORTER'S NOTE: At this point a cameraman accidentally unplugged the tape recorder, and a short portion of the proceedings was not recorded. The situation was discovered, rectified, and the recordings resumed in the middle of Mr. Cassidy's answer to another question.)

10 MR. CASSIDY: (cont'd.) ...employees, either nine or ten, where this specifically happened, and to some extent it reflects the practice of the Workmen's Compensation Board, and with respect to asbestos we are suggesting that in your interim report...which I hope does come early...that there be fairly tough recommendations about making sure that the Workmen's Compensation Board no longer victimizes people who are workers who suffer from asbestos-related diseases.

15 DR. DUPRE: I appreciate that answer. Can I also ask that you simply have your researchers take it as notice simply in the following sense that you illustrated the problems, the other problems you had in relation to back injuries, which of course would be perhaps related to accidents rather than to a hazardous substance that causes disease, as you undoubtedly appreciate...if we are going to approach this problem from our standpoint we have to pretty well refine things to industrial disease instances, so if there are any that happen to come to the attention of your researchers, we would very much appreciate knowing about that.

25 MR. CASSIDY: Would you like us to then bring some of those cases to your attention?

DR. DUPRE: Oh, certainly. Submit...

MR. CASSIDY: Not right now, but...

30 DR. DUPRE: No, but absolutely. If there are other hazardous substances involved.

MR. CASSIDY: Mr. Ziembra may have one or two examples that might be helpful.

DR. DUPRE: Oh, please, Mr. Ziembra.

MR. ZIEMBA: I'll be very brief. I have one case that comes to mind.

DR. DUPRE: Oh, would you use a microphone, please?

MR. ZIEMBA: I have one case that comes to mind where an injured worker...well, where a worker that was receiving Workmen's Compensation benefits died. He didn't die from the silicosis that he suffered from, but he did die from another disease...I think it was heart or something, that gave out...and his widow was denied benefits. I'll bring you that case, and others.

DR. DUPRE: This is a silicosis case? Well, that's the sort of thing we would be very much interested in.

Well, on that note may I, on behalf of my colleagues, thank you most warmly for having come.

MR. CASSIDY: Thank you very much.

MR. ZIEMBA: Thank you.

DR. DUPRE: Thank you.

We will now break for ten minutes for coffee.

THE INQUIRY RESUMED

DR. DUPRE: May I now welcome, please, Mr. Tom Patterson and his colleagues. Mr. Patterson is the director of corporate relations of Johns-Mansville, Canada. Mr. Patterson, we are in your hands for you to direct the conduct of this presentation as you wish.

MR. PATTERSON: Thank you very much, Dr. Dupre.

I have with me today Doctor Paul Kotin, senior

MR. PATTERSON: (contd.) Vice-president,
Health, Safety and Environment of Johns-Manville, and also
Doctor Gerry Chase, Director of Biostatistics and Epidemiology
for the company.

We appreciate indeed the opportunity you afforded
us today to appear before you and to expand on the brief that
we submitted to the Commission a few weeks ago.

As part of the industry, we look forward to
your work as we feel it provides a forum for all of the
pertinent facts to be heard and properly evaluated. We feel
your Commission will perform a very useful task in the days ahead,
and reach logical conclusions for the benefit of all concerned,
government, labour and industry. We certainly wish to assure you
that you have our continuing co-operation and we are at your
disposal at any time you wish to speak with us.

To start our presentation this morning...this
afternoon, excuse me...I will call on Doctor Kotin to make his
remarks.

DR. KOTIN: Thank you.

Members of the Commission, you have my brief
and if I may, just for some three or four minutes, make a brief
opening comment since I suspect questions and answers will be
most useful to you, and certainly to me, in addressing the
issues as you see they should be addressed.

Inasmuch as my brief did address certain
fundamental issues, both scientific as well as medical, may
I just very briefly describe what I have done prior to my
coming to Johns-Manville. I have been with Johns-Manville
for seven years. For the four years prior to that, I was
Dean of the School of Medicine and Provost for the Health
Sciences at Temple University in Philadelphia. Five years
before that, I was the founding director of the National
Institute of Environmental Health Sciences of the NIH, and

5 DR. KOTIN: (cont'd.) before that had five years as the Scientific Director of the National Cancer Institute, the Directorship for Etiology, that phase of science concerned with the causes of disease, and in this case, cancer. Before that, I spent fourteen years as a professor at the University of Southern California School of Medicine. I am a physician, pathology is my specialty.

10 My career in clinical medicine, research and administration have been virutally entirely devoted to environmental health and medicine, with special focus on the causes, biology and natural history of cancer. I understand this phase of the Commission hearing is devoted to fact finding, and in the brief I have submitted I have attempted to be as factual and, hopefully, as provocative as possible to generate some questioning.

15 This very brief statement I am making should, I think, be addressed to three substantive issues I would like to address. I fully recognize that the health, medical and technical aspects of the problem are a major, but nevertheless not the exclusive, element in any policy decisions you will arrive at, so that again I would like to believe that in preparing my brief it was submitted as one of many areas and disciplines that you have to consider.

20 First, let me emphasize that there can be no question of the reality that those occupationally and para-occuptionally excessively exposed to asbestos in the past have been at increased risk and have indeed manifested an array of what we call asbestos-related diseases; asbestosis, mesothelioma and lung cancer, the latter virtually exclusively in association with cigarette smoking, but nevertheless the triad is there; suggestions of increased risks to cancer of other sites - certain segments of the gastro-intestinal tract, the gut and the larynx have also been reported in some studies

DR. KOTIN: (cont'd.) in the medical literature.

5 But for these sites, unlike for asbestosis, mesothelioma and lung cancer, there are analogous studies reported in the literature that fail to demonstrate this risk. The issue is still unresolved and I would hope we would be able to look forward to having it resolved in the near future by ongoing studies. So really the issue before you then reduces itself as to whether exposure at any level is associated with increased risk to asbestos-related disease. I do believe there is a no-adverse-effect level of exposure to asbestos, and that further, that asbestos, in common with other environmental agents, exerts and manifests its biological effects in full concert with the biological principles of dose-response, multifactorial causation of adverse in many instances at a no-adverse-effect level.

10 This again, I emphasize this not to negate the reality of asbestos-related disease subsequent to exposures in the past. Second, the issue of projection or estimates of asbestos-related disease in the future is one of great concern to us all. In a document referred to trivially as the Kaliffano Report, projections and predictions were made as to the future occurrence of cancer for the next two decades, and further, the increment that might be ascribed to the workplace exposures generally, and more specifically to asbestos exposure.

20 You have seen the document, I am sure, and I hope you have seen copies of commentaries which challenge it as well. I have a semi-personal stake in all of this in that I was associated with two of the three co-operating institutes that were the fathering sites of this report, and it grieves me that both have had to recant their positions.

25 Third, the safe level of exposure is perhaps the fulcrum on which all of your deliberations will teeter. While a definition of 'safe' has a strong individual element...

DR. KOTIN: (cont'd.) what's safe for Evel Knievel is not safe for me...yet there are a set of definitions of safety and an array of rubrics that exist in most scientific, legislative and regulatory areas which do provide a common ground for defining safety so that communication can take place between the various constituencies concerned with safety.

Clearly, safety applies to virtually all of, if not in fact human endeavours on an individual and in an integrated way. Certainly the exposure to asbestos would fall into that category of human behaviour where a potential for risk exists where a risk need not exist, which I believe add up to the fact that a safe level of exposure, by an acceptable definition, does exist.

Thank you very much.

DR. DUPRE: Thank you. Mr. Patterson, do you wish to add to the presentation, or your colleague...?

MR. PATTERSON: No, I think we will be content to take questions, thank you.

DR. DUPRE: Most certainly. Thank you very much.

Let me, of course, confirm that in this phase of the hearing the entire purpose of the Commission is to engage in general dialogue with those who have voluntarily put forward the submissions that are before us. I repeat this because, of course, I do know that in the world of science Doctor Kotin is an acknowledged expert, but Doctor Kotin is not here as an expert witness. This is reserved for a later phase in our hearings, and of course I will not at all be surprised if Doctor Kotin is asked to respond positively to an invitation to appear in that phase.

But with that much said, might I perhaps, Doctor Kotin, turn you over into the hands of my colleague on my left so that two pathologists, perhaps, may discuss some of this material together?

DR. KOTIN: Thank you.

5 DR. DUPRE: Before I turn you over to Doctor Mustard, may I please ascertain the following: Can you two gentlemen see each other without craning your necks?

DR. MUSTARD: I certainly can.

DR. DUPRE: Okay, there you are. Proceed, Doctor Mustard.

10 DR. MUSTARD: Perhaps with your background you might like to educate us a little bit about the background of the Kaliffano Report, because I think it's an important document. One interpretation which has been given to me by some of my Canadian colleagues in the cancer field is that what they really meant is that the work-related exposure could be a contributing factor to X percent of cancers, rather than being causal. Whether that interpretation is right or
15 wrong, to get into this complex area of contributing factors but not necessarily being causal, so because this has been such an important factor in some of the background story about the environmental hazards, workplace hazards in cancer, and indeed probably one of the issues that we face as a
20 Commission when we look at the whole question of substitutes, etc., I wonder if you would care to give us further amplification of the background of that and what the intent was in terms of statement behind it?

25 DR. KOTIN: I would be glad to, but let me at the outset say that I will forward to the Commission the exchange of correspondence between myself and the ten contributors, since nobody claims authorship for the report. I was able to trade on the fact that four of the ten contributors were former associates of mine, two additional ones were two I brought into the federal employ, so there was
30 a candid exchange in which through my letter, a very brief one, said where do you stand now. That, I think, will let you

5 DR. KOTIN: (cont'd.) know how the contributors
feel. The background of the document, I think, relates to
three things: First of all, the issue of asbestos in consumer
products, typified by the recognition that certain hair dryers
10 had asbestos in them, generated maximum interest on the part of
one of the government regulatory agencies. Secondly, the
Occupational Safety and Health Administration, which has
been addressing the issue of workplace standards since 19...
well, since 1970 when OSHA was formed, but in 1975 they
15 published a proposed rule which had as its intent reducing
the time-weighted average eight hour workday exposure from
two fibres to a half fibre per c.c., had really gotten
nowhere, not on the basis of any lack of devotion or commitment
on the part of Doctor Bingham...quite the contrary...but on
the basis of the fact that an analysis of the scientific data
20 was found wanting in terms of what the regulations would require
an agency to have to demonstrate and support a position. So
that there was some degree of frustration on the part of
Secretary of HEW in that respect, and then the issue of the
school ceiling which has been addressed earlier today.

25 So that the Secretary, through the Surgeon-
General, Doctor Julius Richmond, asked that a report be made
on the scope and extent of the contribution of occupational
cancer in general and asbestos specifically, to the overall
spectrum of cancer.

25 Naturally, he turned to the three agencies that
had a scientific mission that were obviously involved; The
National Institute of Environmental Health Sciences, the
National Cancer Institute, and the National Institute of
Occupational Safety and Health. In their first draft a
document was prepared. As my exchange of communications will
show, certain members, contributors, never saw the document
30 before it was out.

I don't mean to denigrate the document, because

DR. KOTIN: (cnt'd.) no matter how hard I tried, I couldn't nearly as much as the substance of the document does it to itself, but it was a document that was addressing a very, very grave issue and it was not a politically-motivated document, but it was a document that was addressing such a grave issue that the quality of science should, if anything, have been a little above the normal.

Well, when the document was published, what they did..anticipating, perhaps, what they felt Secretary Kaliffano wanted, was take a series of worst-case situations, situations which in some instances were chronologically obsolete, and use them as the basis for their projections. In the submissions you have from Johns-Manville, Doctor Chase and I prepared two rather extensive critiques of the Kaliffano document, and taking into account fully the issue of multiple factor etiology, you will note in my brief notes I feel it's strong enough to have listed in a three or four minute presentation. But again, what they did was almost in a preconceived way interpret data so as to create the maximum impact of not only the workplace in general and asbestos in general. I think now the document itself most charitably can, I think, crawl back on the one unburned bridge by saying that it is a treatise in multifactorial etiology. But there is no attempt to distinguish between the determinants and modifiers of carcinogenesis, the initiators and the promoters of carcinogenesis. It does not take into account at all the potency of carcinogenesis. It does not take into account the natural history of carcinogenesis in terms of both the potency of the initiator and the reversibility of of cocarcinogens or promoting agents, and so on.

Well, I don't mean to make this into a seminar on carcinogenesis, but there is really no area of scientific content that the document cannot be faulted on and I think from

DR. KOTIN: (cont'd.) the Regius Professor of Medicine of Oxford, extending around the globe, this has been the reaction of the academic community.

5 DR. MUSTARD: Thank you.

Could I turn to page five of your brief and pose a question for you in which you are talking about the dose-response amongst people that are being monitored in the system, and you indicate that since control measures have been put in place there has been a sizable change in the incidence, but epidemiology is a numbers game and therefore if your work force is relatively small in number, say four or five thousand, you know, what you are going to find is going to be different than if you've got four hundred thousand. So that when is looking at your dose-response relationships and risk, is there any way that you can provide in your assessment some kind of estimate of what you may be missing because the numbers that you are studying are actually small in proportion to the likely risk in the situation? Did I make myself clear?

15 DR. KOTIN: Yes, you do, and it's a pointed question.

20 The numbers are not only small, but I was very much concerned that the numbers might represent traceable people rather than the entire population at risk...one of the failings in many studies. Well, I guess happily for the people in Australia as well as happily for ourselves, they do have a state medical system so the failings that are prevalent in the United States in terms of followup did not exist there and they were able to virtually follow each person. So let me first answer that the population represents a total population and that bias is not eliminated, but is at an irreducible minimum.

25 DR. MUSTARD: Could I ask a question, just interrupt for a minute? Is that one of the few studies where there is a complete trace on the total population?

30

DR. KOTIN: As far as I am concerned, it is... whether it is one of the few studies, I can't say, but it is a study that would be virtually impossible in the United States in terms of following it up that extensively. Only recently have we gotten around to a death index in the United States, and only recently the Social Security Administration by virtue of the urgency of the problem has begun to make available followup records despite certain hazards of confidentiality.

Okay, the second question, the size of the population. It is a small population, but again, really people who are concerned with asbestos-related disease can't have it both ways. If the risk is as exquisite as they say it is, and the fact that you have two marker disease...asbestosis and mesothelioma...I felt that I could give perhaps added credence to this study, as indeed I have in the past given added credence to studies that have done a pretty good job of indicting asbestos with small numbers, because of the fact that you did have...you weren't looking for something that was likely to be confounded by a lot of other multifactorial efforts going at once. Well, this is a simple pathologist and a jack epidemiologist speaking. Perhaps Dr. Chase as a professional epidemiologist might care to address this... the Hardie Study.

DR. CHASE: Your point on the size of the study itself, of course, can always be...is always a good point, and the larger the study group the more the numbers, the statistics will tell us. So that all the caveats that would go with any smaller study would go with a work force of this size, and one can always say 'consistent with' or all the other qualifications that would go on it. So your point is well taken in terms of the sheer numbers of the study.

Statistics...the statistics themselves will neither prove nor disprove anything. They are going to be

DR. CHASE: (cont'd.) consistent with or inconsistent with, as we look at them statistically.

5 DR. MUSTARD: Okay. Can I turn to another subject? One of the issues that we have had presented to us is, of course, the question of related physiological deterioration that may be association with asbestos-related disease, asbestosis, etc. I wonder if, from your vantage point as a pathologist and your experience in this area, you have any views about, as my colleague the chairman says, the nexus between, say, 10 asbestosis, pneumonia, heart failure and things like that... particularly right heart failure?

DR. KOTIN: Well, I was taken with the question this morning concerning what does one do with a patient who has asbestosis and then dies from a heart attack, let's say. 15 I think that there are three or four principles and three or four specifics one can do.

First of all, I think that there is a form... first let me say that basically heart attacks do occur in the absence...and I don't mean to be trite...just a little background...do occur in the absence of any associated 20 disease. For asbestos exposure there is in fact one form of heart disease that I think, in the presence of asbestosis, one has to seriously consider asbestosis as not necessarily contributing, but perhaps being a prime factor, and that is the disease of the heart in which the right side of the heart undergoes degeneration and ultimate failure because the right 25 side of the heart pumps against the lung, the gradient of the pressure in the lung, and it has to work harder and harder and ultimately it can prematurely give out. The fancy name for that is cor pulmonale heart of the...related to the lungs, and about that there can be no question.

30 Insofar as a heart disease in which the more traditional left side of the heart is affected by obstruction

DR. KOTIN: (cont'd.) of the, one of the coronary vessels, the vessels that feed the heart, and so on.

5 I think that clearly each case has to be recognized on an individual basis. Does asbestosis per se contribute to non...to heart disease of the noncorpulmonale type? The generic answer would have to be no, because of the fact that physiologically there is no mechanism for explaining. Alternatively, I would say that a person with advanced asbestosis has some degree of systemic anoxia, which
10 could affect the heart...but again...

DR. MUSTARD: Lack of oxygen in the blood, for my colleagues.

DR. KOTIN: I'm sorry. I keep looking at you. Let me talk...

DR. DUPRE: Thank you, Doctor Mustard.

15 DR. KOTIN: Let me talk to your colleagues and just have you listening, standing by. I apologize, Dr. Dupre.

Anyway, I would say that on an individual basis the very nature of what you are asking would require each case to be required individually. (sic) But if I had to make a generalization, the generalization would be that asbestosis
20 does not contribute to the usual kind of heart.

DR. MUSTARD: Can I ask you a question on this, or any members with you, in the United States, in terms of compensation for asbestosis, is there a debate about people who die with right heart failure in terms of whether that is
25 compensable against asbestosis, or is it accepted? Do you know?

DR. KOTIN: In my experience...well, all I can do is speak for Johns-Manville...a case of corpulmonale in a person with asbestosis is occupationally caused until proven otherwise.

30 DR. MUSTARD: I have one final series of questions to ask you. Recognizing the strong desire to use

DR. MUSTARD: (cont'd.) substitutes for hazardous substances, and recognizing that many of the substitutes are themselves potential hazards, what are your views about the requirements that should be set forth before a new substance can be accepted as a suitable safe substitute?

DR. KOTIN: Well, I would divide substitutes, perhaps, into two categories: The use of an existing material as a substitute, or a newly-devised material...either something generated by a genius in a chemistry laboratory or some material heretofore not used at all. If it's a material that is a part of the environment and part of the living experience, the first thing that should be done, the first of several steps, should be to see whether you've got a large enough population exposed long enough to see whether you can detect any impact on what these people...the pattern of disease or the pattern of death in these people.

If it's a new material, you then have to... and perhaps even with an existing material, you then have to turn to what models there are, animal models, for biotesting, but in addition to that take into account what is known about the physics, the chemistry, the geometry of the particles. One can make pretty good guesses...that's understating it... one can be reasonably certain about the distribution of an inhaled particle through the body in relation to the size of the particle, its stability, its solubility, its shape, as well as its size...and its survival in the body...I think I might have mentioned that. Well, what I would insist upon a new product having to hurdle before it could be introduced would be, one: at least a presentation of all of the accumulated relevant knowledge that applies to that...size, dimension solubility, anatomic faith, which is a fancy way of saying how it gets through the body once it enters by whatever means, and so on. If this summated to an index of

MR. GILL: (cnt'd.) work there in 1963 and worked continually until it closed.

5 Mr. Chairman, you have an initial brief or presentation that was given to you in January. We consider that the first of a series of presentations that we will be giving to you. We, as a union, are taking this Commission in a very serious vein, although when it was first announced, we will have to be honest with and say, we wondered why there was a need of a Commission.

10 The issue on asbestos is something that we have been tied into for a long time. We believe it's one of the best-studied hazards to be found in occupational areas. We contend that enough is known about the dangers to warrant some pretty explicit and strong action, without the need of a Commission.

15 Our members, and we identify some of them through this brief we gave you, are exposed to asbestos. They have been very heavily in the past and continue to be.

20 Our members have suffered damage. A lot of our members have died. Putting it very simply, Mr. Chairman, the attitude of our members are 'they will not take it anymore'.

25 As a union, and I'm talking in totality, we are mighty frustrated with the inaction that we have seen to date. We have had it up to here with the Ministry of Labour in Ontario, and we could speak of other jurisdictions as well, but in particular the Ministry of Labour. We are also tired of listening to the scientists squabble over biological effects and supposed safe levels and control measures. We contend very simply, Mr. Chairman, that we have been lied to by management. We have been let down by government inspection and their supposed enforcement procedures.

30 The outcome of that is that we now have a situation where our main members and their survivors are being

MR. GILL: (cont'd.) abandoned by the Ontario Workmen's Compensation Board.

5 In our brief we have called for the eventual elimination of asbestos from the workplace. In the meantime, we are calling for the maximum protection of workers that may still be exposed. We are demanding recognition of compensation claims, and to this effect I think we point out in our material that we gave you, we have given up to a large degree on the scientific community and we are doing our own bare-footed
10 epidemiology. That's something that we really need a lot of help with, but we can count numbers and we have got our calculators and we've got computers and we can run programs on them. That's very simple.

15 But we have a real difficult time, as we will get into later, with companies that hide information, cook it or make it inaccessible to us. We point out too, that there is little legislation in this province to prevent that...little legislation that we know about, and if you can throw some light onto finding us ways, find out any way of compelling companies, the medical profession, control agencies, government
20 to provide this information, we think we can do the job ourselves of proving the effects of this hazard in the workplace.

25 In this initial submission we were told that you did not want to deal with compensation cases. We can save that for a later date. That's very difficult for us to do, because that's part of the overall argument, but we'll try to keep it separate if possible.

We are sticking to a strictly occupational argument, but there are other groups, I'm sure, that will talk about the environmental needs and protections.

30 We are giving you a case study, and this is Bendex Automotive in Windsor...the late Bendex Automotive in Windsor, because it has been closed down now.

5 MR. GILL: We outline a particular piece of history, in particular the period from 1966 to closure last year we would like you to pay attention to. Part of that history is contained in here in the written submission, part is in the appendix where we start giving you field study reports from the Ontario government starting at April 4, 1966.

10 We hope you might take some time to go through these, because there is a certain story that comes through these field reports, and this is the kind of protection that workers had in 1966. We hear it a lot now from both management and from government - that was 1966, all the divisions were spread between a number of departments and so on, and we didn't have enforcement powers then as we did now. But I should point out...and this is not to single anyone out...but if you look at the first report and see the name of the person that signed that now has a very senior position within the Ministry of Labour - still responsible. So we are not talking about different people back in 1966 and 1981. It's the self-same people and whether they combine the departments or the responsible agency into one department, it really matters not because it's the same people we are dealing with. Those same people were saying in 1966 - no more dry-sweeping of the floor - and I'll show you here in 1978, 1977, the same sort of thing was being said by the Minister of Labour.

25 So it doesn't really matter if they change their stripes a little bit and combine the departments. The same people, saying the same thing...obviously if they were saying it in 1978, what they had given as an order in 1966 was ineffective. And that was what we were contending with, and we maintain that we are still contending with that same problem because it's the same people, notwithstanding there may be some changes in the legislation and structural changes within the government.

MR. GILL: (cont'd.) The history is not a good one. You will learn more about this history because we will be trying to bring you up to date as the Commission goes along.

5 Subsequent to even writing this about a month ago, there has been considerable change in the number of people that now have been denied compensation claims and what have you. We only hope that the people who are alive now will be alive when you get to the part of the compensation end of it. In a number of cases we know that's not going to be true, unfortunately.

10 The two people here with me will be giving you a much more detailed look at the attitudes of management and government and the history of Bendex. They both worked there, they know it better than I do. Just from reading it I get quite angry. I get quite angry to see the sort of callousness, not only on the part of management, but on the part of
15 government which we are supposed to have as the protectors.

In the union movement there is....one union put together a slide show and we have a theme song running through it. It goes to these words, 'who is going to protect the protector'? the protector in this case was the government, and we did not get protection.

20 Enough of that. The matter we cover also in this brief is the biological effects. Now we know this is a major concern of your Commission, but why in the name of God is it a major concern, because we don't understand that? Because we pulled the latest reports out of the computer, of
25 the reviews and overviews of the scientific literature. My God! It's very clear. There is no safe level of exposure for asbestos.

30 So I suppose you may want to ask us those questions, and we have a very simple answer for you on that: Get rid of the damn stuff. Just get rid of it, because there is no safe level of exposure.

5 MR. GILL: (cont'd.) We know we are not going to get into the arguments at this particular level, but when you come down to the point of the formal presentations in June, July and August, we will be bringing expert testimony on this respect. It is very simple to us. We think that argument is over.

10 Now there may be lifetime employment for a certain number of scientists from now until doomsday to check the low level effects of asbestos. That's fine, if they can drum up the money and do that, but I don't think they should be coming bothering us because we know the effects as we can see them now and as they can be measured, and that's adverse, period.

That is really our position - let's get rid of it.

15 The standards? We ask you to treat it as a carcinogen. To us that's very simple, because there should be no exposure to carcinogens. Again, that's all we want to see happen. Treat it as a carcinogen, for God's sake, and quit arguing about the particular effects at different levels. There is no cure - there should be no exposure.

20 We point, as I mentioned earlier, to the matter of record keeping. You have an investigative staff and we suggest that you put it to work to find out what you can. Maybe you want to do this as a case study. Find out where the Bendex records are, how the fact is five years down the line from now. Unless there is change in legislation we won't be able to prove any cases for compensation claims. One, we won't have medical records; two, we won't have any work records. You know damn well we can't win cases on that.

30 The two workers, as I say, who are here will be elaborating a lot on it. We will attempt to answer any questions that you want in that particular area. We have a large technical team that can back us up when we come to

MR. GILL: (cont'd.) the formal presentation. We thought that was not necessary to bring them on tonight, from what we understand as to how you wanted to proceed tonight, but you will be meeting them somewhere along the line.

You are going to meet a lot more of the Bendex workers because you are coming to Windsor...we'll make sure that you meet them. A lot couldn't come tonight for the simple reason that a plant closure...they can't afford to travel.

But since you are going to Windsor, we will take the opportunity to let you hear them.

The case study again, as we demonstrated here, we hope will lay out to you a picture of the failure of the previous inadequate standards to provide any protection. Although it's only one case study, we contend it's symptomatic of what is going on within the industry across this province, and it shows very clearly there was a lack of commitment on the part of this government...a clear lack of commitment. We say without any equivocation there was criminal neglect on the part of management. I'll repeat that - there was criminal neglect on the part of management.

We have a new law in Ontario to deal with occupational health and safety, and people give a lot of descriptions. But the really important thing about it is the way it's being enforced. In Ontario it's a policy of the government to rely on something they call internal responsibility. That internal responsibility as they would like to have us believe, is one whereby management and labour can get together to solve the occupational health and safety problems in the plant without the need of outside interference, in particular government inspectors.

Well, Bendex is a wonderful one to look at, because this is a place where the local union had to strike contract after contract over health and safety matters. And

MR. GILL: (cont'd.) we say to you as we say to the government, there is no internal responsibility in this situation. Absolutely none. We faced management there that did not want to live up to the responsibilities even under law, never mind their moral responsibilities. So internal responsibility just does not work as interpreted, through neglect basically, by the Ontario government.

In doing this we question the motives of the Ontario government in setting up that kind of a law and in setting up this kind of Commission. We state quite bluntly that this Commission has yet to earn our confidence. However, we will do our best to co-operate.

We say also very clearly, be prepared for our criticism and condemnation if we perceive anything but a total commitment to eradicate the problem.

I'll leave that for now, Mr. Chairman, and call upon the two people from the actual location to give you some background on the problem we faced in the plant, and their lack of confidence in management and government to solve it.

First I think I'll call on Jack McCann, who was the plant health and safety chairman and had to deal with this on a daily basis..and is still, by the way, dealing with it.

Jack.

MR. McCANN: First of all, I was the plant safety rep in 1976, but prior to that time I started in 1964 in talking with some of the older employees prior to 1964, some of the problems that they worked with with the asbestos in the grinding departments and the asbestos departments throughout the plant. People, when they come into the plant, they had to punch in the clock and no matter whether you worked in that department or not, you had to walk right through the asbestos department to get to your work area. Therefore, everybody in the plant was exposed.

MR. McCANN: (cont'd.) There was no respirators at that time back in the forties. All they used was rags. They tied them around their face and their nose to combat the dust.

5 After that, they got into respirators, but they weren't the proper respirators. They were for nuisance dust, not for toxic or nontoxic...they were for nontoxic materials. When I became safety rep, I picked up one of the labels off of one and it said 'for nuisance dust only'. It just shows you the co-operation we got with this company. They thought those
10 were the respirators they were supposed to be using, apparently, but they weren't.

Other problems we had in that area was tow motors driving through this area blowing up the dust all over. There was no lockers, no showers. The department wasn't isolated,
15 no change of clothing. People that worked in there brought all this dust home on their clothes, brought it home to their kids. Their wives washed it along with the kids' clothing. Therefore, they were all subject to the dust.

In 1966, the Department of Labour come in for safety inspection, and we submitted a copy of the inspection to
20 you. On that there are two directives: no dry sweeping and proper respirators to be used in the asbestos departments. At that time they noted on that inspection that they weren't the proper respirators.

Again in 1970 when they come in, the same directions. The Department of Labour never said nothing
25 about 1966 or the other years up to 1970, and this went on to 1976 when we had to go on a three-month strike to get these things. We had to go on three months's strike to get the proper respirators, no dry sweeping, we finally got a vacuum cleaner in there, and the only way we could put a safety rep
30 in there was through this three-month strike, even though Bill 139 stated that there should be a safety rep. That's

MR. McCANN: (cont'd.) the only way we could get an actual safety rep in there was through this three-month strike.

5 As far as some of the medical x-rays, the company sent in, submitted seventy names of actual people that worked into the area, but over the years these people worked in that department they were all over the place. We have six hundred and fifty employees at that time, and only seventy of them would be x-rayed...if you worked in that department. You could 10 transfer out of there and they would never even look at you anymore. You wouldn't have a chance to get an x-ray.

15 These are a lot of the problems that we had with the Ministry of Labour. We complained to them and they said it's up to the company to submit their names. How do you get the company to submit their names? Everybody in that plant should have been x-rayed, because everybody was exposed to it because it wasn't isolated.

20 So far we've got nineteen cases submitted to the Comp Board, two of which it's been recognized. We've got three cases of cancer of larynx, and having talked to Dr. Selikoff at Mount Sinai Hospital, he said the chances are, in a count, say of five thousand people, one out of five thousand people would get cancer of the larynx. We've got six hundred and fifty employees. We got three cancer of the larynx. He said it was a sham that the Compensation Board didn't recognize 25 these as of yet, with that number of cases and that number of people.

30 It's just too bad that we had to go on a three-month strike to get all these things. We had a meeting with the corporate office, and I believe the gentleman is in the room here tonight, Mr. Jim Webber. He's the head of the hygienists at Bendex Corporation. He stated right there in front of the UAW hygienists that asbestos does not cause cancer.

MR. McCANN: (cont'd.) It just shows you what the company thinks about asbestos. He said, 'asbestos does not cause cancer'. With all these proven studies that cancer is caused by asbestos...one of the causes...yet he denied that it was.

As far as the Ministry of Labour goes, we've fought with them for years to get anything done by them. You would have to get it in black and white and go over and push their face into it to show the problem we have. The only thing we could get out of them is that 'we're looking into it'. They took air samples, but there was no air samples taken until 1975, I believe. 1975 was the only air samples taken.

We got five cases back from the Comp Board...I don't want to get into that part of it because it's coming at a later stage...and they said well, the dust that they were referring to on these safety inspections wasn't mentioned as asbestos dust. But we don't work in sawdust. We work in asbestos. That's what we're working in. But they said, 'nowhere in there did it say that we were working with asbestos'. The company submits all these phoney submissions such as there is only twenty to fifty percent asbestos in brake shoes. Well, we've got other reports by the Department of Labour saying that it's from fifty to seventy percent asbestos in these brake shoes. So they are lying through their eyeteeth about the asbestos end of these things.

So as it stands now, I asked the company for a copy of their morbidity table after I became safety rep and Bill 139 come out. I had a Health and Safety Committee along with company and management. We asked them for a copy of the morbidity table, and they said that they would refer it to the corporate office. A week later, it's submitted to you, we get a copy back from the corporate office stating that it

MR. McCANN: (cont'd.) was personal and that they could not give us a copy of the morbidity table. We never asked for no names, just numbers of how many people died of cancer. They refused to do this. We had no co-operation with this company whatsoever.

I think maybe Roger has got a few things he would like to add to this.

MR. DOUGLAS: I would just like to touch on a couple of points. I go back to 1963. Yes, I have worked at Bendex since 1963 as a tradesman. Being a tradesman, we suffered some of the experiences and exposure to asbestos at levels that were never, will never be, put on record or file anywhere. The exposure to asbestos which some of the names that appear in the brief, such as Hank Bednarick and a number of other brothers and sisters...we were expected on a number of occasions, in the neighborhood of 1963/64, and ordered and directed to climb inside the collectors and shake the bags, of which none of this seems to have appeared in any number of the briefs that I've read, Or I'd not had the opportunity to appear before this group and explain that I was one of those individuals that was ordered inside, and reappeared much the same color as the blackboard behind you.

We were at that time told it is not a problem, it is not a health hazard, and Hank Bednarick, who was a very close friend of mine, worked on the same crew as I did, is one of the people that assured me that he had heard from higher up in the corporate...and he had spent his whole life there and left his life there...that there was no, truly in fact no danger to the exposure to asbestos. And he was guaranteed that with his thirty-some years of experience and his thirty-some years on the maintenance staff at Bendex. He is no longer with us, but his wife and his retarded daughter are still with us and being denied payments. I should not bring that up.

MR. DOUGLAS: (cont'd.) But the token jobs that have been offered to people at Bendex that have been exposed to the asbestos situation, which is something along the lines of a corporate gesture, and I find it difficult to believe that Bendex in their wisdom could find the time or the monies to make their hygienists available to sit in a session, I understand, all day today, and yet we found it very difficult to find them to appear at any time to discuss any of the health and safety problems we had related to Bendex...be it Windsor, or be it wherever...but he was not available.

I also find that some of the dates Bill 139, Bill 7, as we relate to it...yes, we dealt with them in our primitive manner, because we have no schooling, we have no background in this area, and when we take it upon a committee that has to fight from the grassroots to start off with to get to a position where the people that are working in the plant gain enough respect for them to say, yes, they'll go for it and they'll find out if there is a health factor involved here. And yes, we did fight it. Yes, we are still fighting it, and it's nine months ago that we left this plant, and our brothers and sisters...one of them Tommie Dunn, has since passed away...but we are still fighting it.

We talk about 1966, there was a directive by the Department of Labour as far as vacuuming asbestos. It's sickening to find out that we did not find out about it until somewhere around the 1978 year. This is disappointing to find out that I subjected myself and my family to a world of possibly no father, or no life myself, because they told us at that time there was no health factor involved. That we just marched through the years...I put a number of years down here, and in those number of those years I've already had my larynx operation. I'm very fortunate that it was not cancerous, so they tell me. It could have been when I had it done, because

MR. DOUGLAS: (cont'd.) cancer was not that popular, or they didn't talk about it like they do today. But when we come up to 1981, the air samples of 1975 when they were first made available, the information that was out there, I find it difficult and hard to believe why we have to take time from our schedules of looking for a job...which are not available... and we have to come to you and ask you to put in play legislation or whatever that says that, God damn it...pardon my language...there's asbestos out there and it is a dangerous element.

When you get Tommie Dunns and Ed Rogers and understanding that we are going to put this and postpone this thing off until somewhere down the road in June, July or August to deal with the Compensation factor of it...it was very difficult for me to accept it from brother Jim when he said we've got to segregate it and put it in two parts. We've got to say, hey, we've got a problem from Bendex. We know we have a problem. But, the brother that sits on the far right here, Jack McCann, is being...he is put on the chopping block here. He finds it very difficult to find a job based on the fact that asbestos is something we can't identify.

We've heard numbers, I've been in Ottawa at the different health and safety conferences, Jack has attended them all. We've taken money out of our plant fund to make sure that our representatives in the union movement know what they are talking about when they deal with asbestos. But here we are again today.

I'm wondering if somewhere down the road that if this voice quits working, will it be because of the asbestos? Or will it be because of maybe...I hope it's old age. I really hope it's old age. But Hank Bednarick can't say that, and so many of the brothers that I worked closely with cannot say that. I was in the hoppers with them. I was

5 MR. DOUGLAS: (cont'd.) in it up to my ankles, if
you want to say that. But it's there, and I'm having a difficult
time explaining the fact that asbestos as it relates to Tommie
Dunn and so many others, and their wives and their kids, and
we still sit with the same figure that it is not hazardous to
your health. I'm wondering where we are going on this and I
hope somewhere down the road we come up, hopefully, with the
contents of this brief and hopefully with the co-operation of
10 whoever deals with it, that they take the importance of it at
hand. That I don't wish to leave my family in the next
few years finding that I have larynx cancer again. I don't
think any of you wish that either.

MR. GILL: Mr. Chairman, we are at your mercy.

15 DR. DUPRE: Thank you, Mr. Gill. There is a
lot here. I'm very, very interested in the case studies. I'm
sure your colleagues are.

20 Could we, before we get into dialogue on that,
just move back a little bit on a couple of points? First of
all, the compensation situation, the WCB situation. As you
are aware, we phased that later on in terms of what was then
a legislative timetable, which I believe is still on, that
would bring on some major changes in the Act. As you already
know, however, this is not precluding us from lending an ear
to some immediate compensation problems.

25 I'm not sure whether we can do anything about it,
but we sure as heck are lending an ear.

30 The main point that has been brought to our
attention as something that we should try to do something about
on an interim basis is the whole question of survivor benefits
for individuals who have had a partial disability pension for
an asbestos-related condition.

Does your union have any individuals who fall
into that category, namely, individuals who having had partial

DR. DUPRE: (cont'd.) WCB disability pension, for asbestosis, say, then were refused survivor benefits after dying of a cause like heart failure, and so on?

MR. GILL: No.

DR. DUPRE: You don't have those problems?

MR. GILL: Not at the present time we don't. There's two widows that's getting pensions.

DR. DUPRE: So can I take it, and this is one thing that...

MR. McCANN: I wouldn't take anything...just because we don't have it may mean very simply that we haven't got that deep into the net, and we give you one of our problems...

DR. DUPRE: Right.

MR. McCANN: ...before we get into that is where are the records so that we can look at them.

DR. DUPRE: If you find any, please let us know, would you, on that?

MR. GILL: As I said before, we are quite prepared and we think we are capable enough of doing a lot of our own studies.

DR. DUPRE: Right.

MR. GILL: We can't get a hold of the material to do it.

DR. DUPRE: I'm not asking for a study here. All I'm asking you is the following: If it happens that you should discover that a worker who was at the Bendex plant, or a UAW worker period, had a partial disability pension and then had difficulty in terms of...or at least his widow had difficulty in terms of survivor benefits...we would very much like to know about that because we are trying to see how much of a pattern there is.

MR. GILL: Again, I must refer to the problem we have, with all respect.

DR. DUPRE: Right.

MR. GILL: But we are not privy to this information.

5 DR. DUPRE: You wouldn't be privy to it unless that worker's widow had asked you to take it to appeal for her?

MR. GILL: Or for some reason we picked the information up or we tracked down a particular case.

DR. DUPRE: Right.

10 MR. GILL: To do this properly, the information that is out there, in there, somewhere, is not available to us.

DR. DUPRE: Right.

MR. GILL: This is one of our major problems.

DR. DUPRE: I read you on that. But do you read me on the simple point..

15 MR. GILL: Okay. You are asking me to do something interim, I'm asking you to do something interim.

DR. DUPRE: Fair enough.

MR. GILL: It could start the whole wheel rolling.

DR. DUPRE: Fair enough.

20 Question number two, in terms of reading your brief, is your main short-term problem with the WCB that they have not recognized cancer of the larynx as work-related?

MR. GILL: In this particular case study of Bendex, yes. It's the guidelines that they have put on it that will ensure, I suppose, that only very few people will receive compensation in Ontario for laryngeal cancer associated with asbestos. Exposure levels they want, continuous exposure levels, the period of time and so on.

25 MR. McCANN: What they are claiming is that none of these workers worked above what the level is at two fibres per cubic centimeter.

30 DR. DUPRE: I see.

MR. McCANN: There was no air sampling taken prior

5 MR. McCANN: (cont'd.) to 1975, in which we have six hundred and fifty employees in there that will state that the dust conditions back in the forties was terrible... that they had to have rags up around their face...but there was no air sampling taken prior to 1975, so there is no way we can actually get an air count.

10 DR. MUSTARD: Can I just ask a question? But they are saying that...they are drawing an arbitrary limit that if it's two fibres or less you can't get cancer?

MR. GILL: Right.

MR. McCANN: Right. That's exactly what they are saying, the Compensation Board.

15 MR. GILL: Ties with the continuous exposure. Now here's another thing too. This place was just a rat house. There was dust all over the place. The argument is made... I think it's in here, yes, too...of the inspection that some of our staff did at the plant, and one of the minimal requirements Ontario government had was that you had to put up a danger sign - asbestos. It was so bad that they couldn't see the sign. It was covered with asbestos.

20 But what they are trying to do now is tell us because claimant, Joe Blow...it could be someone like Roger Douglas who worked on maintenance, who was not primarily working on a part grinding what-have-you all those years, so they would give him some evaluation of possibly two years exposure and they might, given that point two level, two years is not enough, you see. This is our argument.

25 We say they worked in an atmosphere that was permeated with asbestos. But it's not good enough. It's very clear what they are saying.

30 MR. McCANN: They are just picking out actual people that worked in that department, but everybody at one time or another worked in the department, whether it be for two

MR. McCANN: (cont'd.) years, five years, but they are stating maybe you worked in there for two months, you were only subject to the exposure for two months. Even though you were subject to it through the whole plant...it wasn't isolated or anything, everybody in there was...

MR. GILL: Twenty years work there doesn't qualify.

MR. McCANN: You had to work twenty years actually in that department is what the Comp Board is saying, to get your compensation.

DR. DUPRE: Mr. Douglas?

MR. DOUGLAS: May I add that on page nine, the biological effect, it deals with the first of these employees, Henry Bednarick. There's a perfect example of how it was not necessarily not presented properly, okay, but it deals with the fact that he worked as a maintenance man, all right? It says down further that, "Hank Bednarick was a maintenance man servicing the machines and used to drill rivets and drying asbestos lines."

The fact is that Hank Bednarick, one of the affected by the larynx, was ordered on a number of occasions to stand within the confines of an asbestos chamber and shake dust bags. He would get as much exposure...and I have had the same exposure...all right, in a half-hour period that normally working in the plant you may not experience for a month or two months.

DR. UFFEN: Was he told that by the foreman?

MR. DOUGLAS: Definitely.

DR. UFFEN: At that time there are no safety committees with joint employee/...?

MR. McCANN: No safety committee. Not until 1976 when Bill 139 came out that there was a joint health and safety committee.

5 MR. GILL: I don't know if this is indicative of other corporations or not, but this is one where the work force had to strike repeatedly not over money, but for the right to establish some health and safety requirements. So as far as committees, to get effective committees, they weren't there until legislation.

10 DR. UFFEN: Could I just clarify one other thing? This series of letters starting away back in 1966, these went to the corporation?

10 MR. GILL: Right.

MR. McCANN: Mmm-hmm.

DR. UFFEN: But they were never enforced?

MR. McCANN: Not until 1976...

DR. UFFEN: 1976?

15 MR. McCANN: ...after Bill 139 came out. Then we got a copy of all the field reports, safety audits.

DR. UFFEN: So you didnt' know about it and it wasn't enforced?

MR. GILL: No.

20 MR. McCANN: No. We got our hands on this last summer during the asbestos issue at Bendex. I can't say how we got them, but we got copies of them.

MR. GILL: They were never volunteered, in other words.

MR. McCANN: No.

25 MR. DOUGLAS: Keep in mind that some of these issues and some of the problems have been, because of in-depth negotiations have been corrected. Then to find out that in a three year term prior to finding this type of letter that we had just been able to secure, say a vacuum cleaner for a certain area, and then finding out that it was in play back as far as 1966. It left a lot to be desired as far as whether in fact the company and the union ever had a co-operative attitude

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MR. DOUGLAS: (cont'd.) in the area of safety. It was definitely there. We always had that. We had to have it because we had electricians, that people who were in responsible positions to start with. We had people that had to inspect fire restrictions and what not, and we had programs of that nature in play. But this was kept hidden, and that's the disappointing part of it. Anything that was already in play, like the Fire Safety Act...I don't imagine it's a stranger to anybody...how to recharge a fire extinguisher if you were taught it and trained it, then they did it. Then either the union or the company was governed by the different insurance companies to see that it was done, but there was no followup on this, there was no restrictions, and there was no penalties. We paid the penalty.

DR. DUPRE: Let's take the compensation point as made, shall we? We are interested in those cases. Indeed, we'll be following up.

Could I ask you another kind of a question? I guess I'm going to direct this one especially to you, Mr. Gill, in the hope that you can help me with it.

How many brake shoe lining assembly and repair plants do we have in Ontario? Was Bendex unique or are there a number of other such plants?

MR. GILL: No, I think there's about four or five in the province.

DR. DUPRE: Does...is...

MR. GILL: This is the only one that we represent. I think if you are talking to the United Steel Workers you'll find they represent, I think two anyway, in this...

DR. DUPRE: I see. So I think the steel workers would be the bargaining agents at at least two of those plants?

MR. GILL: I believe that's true.

DR. DUPRE: But Bendex would be the only one in which the UAW is the agent?

MR. GILL: A. Yes.

5 DR. DUPRE: Again, I'm trying to situate all of this in perspective. Is the UAW a bargaining agent at any brake assembly and repair plants in the U.S. to your knowledge?

MR. GILL: Oh, yes.

DR. DUPRE: Including Bendex?

MR. GILL: Bendex, inhouse General Motors operations, a number of them. If you want the list, we can supply to you, yes.

10 DR. DUPRE: Yes.

MR. GILL: It's becoming very rare. We notice a trend in the United States to move those operations to the Far East, most of them.

15 DR. DUPRE: Mmm-hmm. But on this point, is Bendex...is the Bendex Ontario Plant something that stands out as a bad case in contrast to the American Bendex plants?

MR. GILL: It's hard to, I suppose, to put it in any particular context in relation to another one. They were working on a different legislation. From talking to union members in the United States, it would seem there were certain corporate attitudes that went across the borders. This is not unique. You find that in all corporations - attitudes on one side or the other are such that they have this disposition to get away with whatever they can, depending on the legislation.

25 DR. MUSTARD: Steve, can I just qualify?

DR. DUPRE: Please.

DR. MUSTARD: You said inhouse GM. Is there...

MR. GILL: Well, a lot of my information...

DR. MUSTARD: ..an inhouse GM asbestos operation?

MR. GILL: GM have their own parts manufacturing.

30 DR. MUSTARD: Do they have it in Canada, in Ontario?

MR. GILL: No. Not brake shoes.

MR. McCANN: I think they just assemble them here.

MR. GILL: Yeah. They put them on, the whole assembly. I think most of theirs is in the Far East. You'll find more in Manilla, I think, or Mexico, than anywhere.

DR. DUPRE: Can we speculate on why that is? Is it because of easier occupational health regulations in these jurisdictions?

MR. GILL: We believe so. We believe so. I think if you look at the reviews of the literature, there have been a number of articles recently about the move of asbestos manufacturing to the Third World. It's not just in auto parts, it's what have you. It's quite a phenomenon.

DR. DUPRE: Are there any advances that you know of that have involved the substitution of nonasbestos materials in the manufacture of brake linings?

MR. GILL: Jack, do you want to...

MR. DOUGLAS: Yes. I believe GM has likely made more inroads than anybody in the area of fiberglass. They are making inroads, but I imagine as long as there's a substantial amount of asbestos to be mined that we'll continue to have asbestos.

MR. GILL: There are brake shoes on the road now in certain models of certain cars that are asbestos-free, or virtually asbestos-free...considered to be slightly more expensive than the asbestos, purely in a manufacturing sense.

MR. McCANN: Bendex Corporation made a commitment to us that they are working on a new substance for asbestos for brake shoes and that within four years that they are going to manufacture this. But we asked them, our hygienist, UAW hygienist asked them if they would share this with other manufacturers of brake shoes so we can cut down on the cancer cases, and they refused right out that they would never...it's a trade secret, they wouldn't. It shows you how

MR. McCANN: (cont'd.) much value they have on peoples' lives that they just want to keep this to themselves so other brake manufacturers won't get the trade secret.

5 MR. GILL: We didn't dwell on substitutions in this presentation, but if you would care, we would bring what information we have. I think...to a subsequent meeting, or whatever. I believe we can safely say there is enough evidence to point out that virtually all asbestos uses can be replaced with somewhat more safer substitutes. In brake shoe manufacture, 10 or friction manufacturing, friction products. Yes. There are other substitutes.

DR. DUPRE: Dr. Uffen?

DR. UFFEN: You have made pretty important point there. I think I can say with assurance that you really made 15 your point about frustration and time delays, and that's understood.

You also said you were fed up with the scientists and what appears to you as dithering around with more measurements and so on. I think it's a little unfortunate, because..and it's illustrated with the substitution problem... 20 that if there are to be safe substitutes, someone has to find out if they will work, if they are safe, what are the means of regulating, etc., so I would like to ask you who should do this? Who would you trust? A government department? An independent agency? Your own people? Or some new independent organization? 25 Because if you just say you don't want to have anything to do with it, which I'm sure you didn't really mean for substitutes, if you have lost confidence in the scientists and the engineers, what are we going to do?

MR. GILL: First off, I haven't lost confidence in the ability of the scientists and engineers to do this 30 testing and come up with the results. It's maybe I've lost

5 MR. GILL: (cont'd.) patience with them and their inability to take a stand on it. I don't think the testing is really a problem. It's who is going to take a stand with it once it's done, the scientists themselves? Very few. You are well aware of that...government even less. So I don't think it's really a problem with us of looking for some new independent agency.

10 If all testing is done, scientific work is done in the open as it is done even more so everyday...I mean, look at the university across the road here. A few years ago we got, with some difficulty, it to come up with a certain policy of disclosure of research information...not emulated by every other university across the country, I'm sorry to say...including Dr. Mustard's university. There are some drawbacks yet, but they will eventually. This is, I guess, what we are looking at.

15 There's agencies out there that are capable of doing this testing now. What are they doing with it?

20 DR. UFFEN: But you raised another issue, quite an important one, which I don't think that we have had drawn to our attention before. This is the potential conflict between patent law for new substitutes and the necessity of open investigation for health and safety. I don't believe anybody else has drawn attention to that. It's not in your brief, but it may be one of the very important contributions that you just made.

25 DR. GILL: The other matter too, you raised, about moving substitutes into use...it didn't take very long to get the asbestos out of drywall patching compounds because that went into houses. We contend that there was quite a quantitative difference between the action taken in the workplace and the action taken somewhere else. Substitutes are found pretty damn fast if they affect certain groups of people.

30 DR. UFFEN: You fellows know a great deal about

DR. UFFEN: (cont'd.) the actual business. When a serviceman changes a brake lining in an old car, not in the plant, is he likely to be exposed to undue risk?

5 MR. GILL: They used to be. But more modern places today, they clean them off with a vacuum instead of blowing the air on them, just straight air on them.

MR. McCANN: I think the average gas station they blow it off with an air hose. That's the procedure they go through.

10 MR. DOUGLAS: Let me also add that most of the loss of asbestos from the lining comes out of the hub and exits through...

DR. UFFEN: When you take it off, when you take the old one off, there is a lot of crumbs left in there?

15 MR. DOUGLAS: Mmm-hmm. Well, dust and particles.

DR. UFFEN: All right.

MR. McCANN: Usually they blow your drum out to replace...

DR. UFFEN: Then they just turn an air hose on it. Where does it go? Just in the air?

20 MR. McCANN: Into the environment.

MR. GILL: It's usually washed down into the sewer or something.

DR. UFFEN: Who looks after them?

MR. GILL: Pardon?

DR. UFFEN: Who is concerned about these people?

25 MR. GILL: We are concerned, but you first looks after it. No one looks after it.

30 MR. DOUGLAS: I would like to answer to that, if I can. It's no different in that small percentage, and it's a lot worse in the case where Bendex on Argyle Road used to put the hose to the parking lot when the dust collector didn't work and hose it down the sewer, and then it showed up in all

MR. DOUGLAS: (cont'd.) the neighbors' yards too, and they came down and protested. So the kids were all subjected to it. Yeah, it's got far-reaching effects too.

5 But having a brother in the mechanic business, they seem to be very careful. They either vacuum it or hose it down into their drainage too. It's not in the volume that we are talking.

10 It's on the highways, but very small percentages. You would not stand in the situation like that. You would not be exposed to it in the same amount. But in the working environment, it's not always the working environment or when you are being tested that shows the full percentages.

15 DR. DUPRE: Let me just picture the following: A garage mechanic, of course, who does not belong to any union, who is employed by a single small businessman who is a gas station owner, is he likely to be exposed to dust levels from blowing out the rest of the lining before he puts it in?

20 MR. GILL: Sure. By the way, there's not many of those garages left anymore. They are becoming much bigger operations, a number of them becoming organized. In those cases there are measures, protection measures brought into play. We do have a number of places like that where heavy machinery is repaired, right here in Toronto, where brake shoes are replaced and what have you, are a much safer environment. They use the vacuum and masks and so on.

25 So it can be dealt with. Our contention is...

DR. DUPRE: But it's not being dealt with except in these rather specialized repair shops, is that it?

30 MR. GILL: No. They can do it anywhere they want. Vacuum systems can be put in a small garage as well as it can be in a large one. But the thing is, I think we are of a like mind. I think you are getting at some argument possibly that it's difficult in a small place to come up with

MR. GILL: (cont'd.) this kind of equipment and process.

5 DR. UFFEN: They may not even know. Would a class A mechanic be aware of the risk that he was running?

MR. McCANN: Other than what they read in the newspapers on asbestos, I would say they are not aware of the hazards of asbestos.

DR. DUPRE: Dr. Mustard?

10 DR. MUSTARD: I have two questions. The first one is, I guess this is directed to you, Mr. Gill, United Auto Workers work with a variety of firms, and some may be more progressive than others and they may be all the same, but I was interested in your comments...and this is really my first question, that management/labour relations at Bendex in terms of health and safety, from your comments, were I
15 would think virtually zero.

MR. GILL: They can tell you better than I have. I didn't...

20 DR. MUSTARD: Are there any units with which you are associated as a union where you've got, let's say not perfect but at least reasonable management/labour relationships to health and safety?

MR. GILL: Improved over the past. It relates not necessarily to the legislation either. It relates to a whole set of circumstances in the past.

25 DR. MUSTARD: They might have negotiated it?

MR. GILL: We never had this sort of thing negotiated more or less on a voluntary basis. Mostly it came out of strikes.

DR. MUSTARD: That's what I mean.

MR. GILL: Yeah.

30 DR. MUSTARD: In those places where you have that in place, you know, it's far from perfect, but let's say it's

DR. MUSTARD: (cont'd.) a step up from Bendex, is the exchange of information and records and whatnot about what's going on in the system, have you got at least some access
5 to data and whatnot in terms of occupational health problems within those organizations?

MR. GILL: It's bad. I met with a group of health and safety reps yesterday for one of the big three auto assembly companies. They have a variety of plants across the province. In one plant in one town, they have on
10 staff a hygienist who is, I suppose, a model type that sets up her own data sheets for that particular area in most explicit manner, makes them available to everyone and so on.

You would think because this is a large chain, it's a large corporation, that information will be shared
15 twenty miles, thirty miles down the road with another one of their major operations. It is not.

When you talk even about a corporation, you are talking plant by plant by plant. It varies that much.

DR. MUSTARD: But some can do it, I guess is really the message?

MR. GILL: This is an example that they can do it, but I think it's more about the initiative of individuals maybe in one particular place as opposed to a corporate
20 responsibility that they have adopted companywide.

DR. MUSTARD: The point, I guess, I was trying to come to on this one..it almost seems to me from your story about Bendex, and this is a kind of conclusion that one might draw...is that they found it was going to be pretty tough to
25 meet with the management/labour relationships in handling problems like asbestos in the future, and you know, I'm almost forced to conclude that the problems of doing that really
30 would have made a formidable problem for them for the future in terms of freeing brakes from asbestos, and I am just hoping

5 DR. MUSTARD: (cont'd) that in terms of the concepts they are trying to get at some of these issues in terms of occupational health, that there was some evidence within the system that some places management and labour are establishing relationships, you know, that allow some of these issues to be handled in a fairly open, clean manner in terms of disclosure of information, etc., in the system.

10 MR. GILL: I don't think that we have any examples that meet that kind of criteria you just described.

15 DR. DUPRE: Not only inside Ontario, but inside Canada? Because I noted your point very well about internal responsibility, but what about Quebec, for example, where Bill 17 has rather more teeth, as I understand it, in terms of labour/management health and safety committees being able to bring in third parties when disagreements develop or when no action is taken?

20 MR. GILL: Well, Bill 70, of course, all parts haven't been proclaimed yet and when it's all in place, including the choice of medical teams and what have you, we'll have to look at it again. But the third party is not necessarily any way to solve the problem. We have many of our contracts where we are able to bring in third parties to try to resolve it or bring some light onto it. But if a corporation is still hiding information and we get little or no assistance from the government, the third part would gain nothing.

25 In the last few weeks I have been the third party in four or five different operations. The only reason it's working in those particular cases...and in none of them is it written in the contract that the local in that case can bring in a third party...but the company knows from incidents over the past short time that they will be facing such things as wild cats, continued refusals and so on. But I find even

30

MR. GILL: (cont'd.) going in as a third party, it's not that I can lend any light to it, it's just a little bit of help in forcing information out of them. But if they don't want to give it, third parties don't help.

DR. MUSTARD: One other thing that I think has to be of concern, listening to your presentation. There is a work force that worked at Bendex. In your view, a large proportion if not all of that work force has been exposed to asbestos?

MR. McCANN: At one time or another.

MR. GILL: Mmm-hmm.

DR. MUSTARD: Is there any kind of record that is available of those workers, and is anybody tracking those workers?

MR. McCANN: Not that we know of, but we requested a study done by the Department of Labour and apparently they are going to do a study on it. How far that's gone at that stage, I don't know.

I want to state one of the other, one of the biggest problems that we had with the asbestos issue at Bendex is with the Department of Labour. Like, we wouldn't have had to go on strike for three months for a vacuum cleaner and all these things if the Department of Labour...they've got a data sheet eighteen, controls for asbestos, a Department of Labour data sheet that they go by. So I got the data sheet and we had meetings with Fred Burton when he was the head of the safety department, Department of Labour. He said there is nothing we can do, Jack, they are below the standards... below the two fibres...he says, we can't enforce these controls on these people.

But we wouldn't have had to go on strike for three months everytime a contract was up to get gloves or to

MR. McCANN: (cont'd.) get a respirator if they would enforce these controls.

5 The company won't implement these controls and the Department of Labour won't enforce it because it's below the standards, they say.

10 DR. MUSTARD: I see. But coming back to the thing that's of concern to me, who, since Bendex is closed, where are the records of those workers? What happens when they come down with something fifteen years from now? How can that be tracked?

15 MR. GILL: We raised this. This is what we are after, because to the best of our knowledge it's only the Employment Standard Act that requires certain records to be kept and the records are skimpy. The time and when a person started to work at that place, the amount of pay and so on. It relates more to unpaid taxes, I think, than anything else.

It doesn't give much information about the type of work done there.

20 But as far as medical records, well of course this is just as important, if you understand, as medical records, so that we could possibly prove in trying to establish a claim that the person actually worked there, they possibly worked so many hours over a period time, and so on.

25 The medical records...well, we looked up the other Acts, the Health Disciplines Act and so on, and in this case, unless a doctor that was an employee of the company had kept records, we have nothing. We have nothing at all.

30 In this particular case, the Bendex corporation offered to do some followup testing. We don't know for sure exactly what this amounts to. The Ontario Government said that they wouldn't do it, although they had promised it, because it was feared that Bendex was going to do some

MR. GILL: (cont'd.) followup tests. No, I would imply that Bendex is keeping its records somewhere.

5 But then you see from this Act that they can keep them offshore. We can't even subpoena those records or use any...

DR. MUSTARD: Let's hold it for a moment. This is, to me it's an important point. There may or may not be work records on the workers in the Bendex plant?

MR. GILL: Yeah. Right.

10 DR. MUSTARD: You don't know whether there are or not, and you do not know where those records are, if there were records?

MR. GILL: Right.

15 DR. MUSTARD: Yet you do know the new draft regulations require records to be kept?

MR. GILL: All right...

DR. MUSTARD: And require them to be kept over long periods of time?

MR. GILL: Mmm-hmm. Inadequate records, but...

DR. MUSTARD: Well, but it's in there.

20 MR. GILL: Mmm-hmm.

DR. MUSTARD: We haven't seen the final regulations yet, so we can't make a judgement call...unless you've had an insight that some of us have not.

MR. GILL: It would have to be changed drastically.

25 DR. MUSTARD: So that there is a potential problem, and I realize, Mr. Chairman, we are getting into the compensation field down the road...for people who have been employees at Bendex who may come up with problems X years down the road in which you as a union would be concerned about your members may find yourself at a disadvantage in terms of trying to access data about what has happened to those people. Is that correct?

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MR. McCANN: Right.

MR. GILL: Very much so.

DR. DUPRE: Mr. Laskin.

5 MR. LASKIN: What do you say is inadequate about the record-keeping medical provisions of the proposed regulation?

MR. GILL: They don't really call for...have you got a copy in front of you?

MR. LASKIN: Yeah, right.

10 MR. GILL: Okay. What one really needs to do is actually job history. Now tell me where that is in there.

Because you see what's happening with the claims we are trying to establish now, they give us the argument that a person only worked, oh, so many hours out of a week or what have you, on a particular job that they will agree had high exposure levels. Okay? But a person could be working five feet away, the job description according to them is a safe job description. What we need is almost a schematic drawing of workplaces. We do this all the time to develop arguments...from memory...and that sort of thing. So what is there will tell you what the person worked, okay? I believe it's there that they should keep the results of any...

MR. LASKIN: Exposure records.

MR. GILL: ...exposure levels, yes, biological testing?

MR. LASKIN: No. I'm not sure what you mean by that.

MR. GILL: Well, you are talking about environmental testing?

MR. LASKIN: Mmm-hmm.

MR. GILL: Okay. But still, when you come to the Workmen's Compensation they want to know what did X work at, where did he work in the relationship of the whole plant,

MR. GILL: (cont'd.) and so on. That's not there.

5 The same as we have here on the Employment Standards Act, when did you start and when did you finish and what you were paid. All that does is establish that you worked at a certain place. We really need a lot heavier...

10 MR. McCANN: And they are going by the exposures after the air sampling of 1975. They are not going by any...because there was no air sampling done prior to that time. So they are assuming that it was the same thing in 1940 as it was...even though the operation was completely different.

MR. GILL: See, there's nothing retroactive about this sort of thing, and I suppose...if you would like to see...

15 MR. LASKIN: No, I understand that. I understand that point.

MR. GILL: And what isn't retroactive, is it explicit for us five, ten years down the line? I don't think so.

20 MR. LASKIN: Is there anything else apart from what you have said that you think should be included in terms of the detail of the records, over and above what you have told me? Leaving aside the point about retroactivity.

MR. GILL: Well we could give you a lot of changes to that, if you want that. But not right now. I'm sure we have it, but we didn't bring that.

25 MR. LASKIN: I would be grateful if you did that.

MR. GILL: Sure.

MR. LASKIN: One...just one other quick point about the three...

30 MR. GILL: By the way, we have comments...I don't know if they were given to you...they were supplied to me...No, I guess it was done internally...on those standards,

MR. GILL: (cont'd.) by NIOSH people...in particular about the record keeping...I'll also give them to you... which point out the inadequacies quite clearly and most of them we have recognized as not being adequate.

Again this points back to the problem...we approached a number of these things from the point of compensation and this again brings it out, we're looking from that direction.

MR. LASKIN: The three cases you referred to, the three cancer of the...

MR. DOUGLAS: Larynx.

MR. LASKIN: ...larynx cases that you referred to, I note in the brief summaries that you say in two of the cases that the people were receiving sickness insurance benefits.

MR. McCANN: Right, they are off on sick benefits.

MR. LASKIN: What are you referring to?

MR. GILL: Oh, that's a negotiated sickness insurance.

MR. LASKIN: Is that part of the collective agreement?

MR. McCANN: Right.

MR. GILL: Yes.

MR. McCANN: It had nothing to do with compensation. It was sick and accident.

MR. GILL: We have agreements, a lot of agreements, provisions for paying or of a person drawing from that fund until such time as a claim is established, and so on. Different ways of doing it.

MR. LASKIN: Do any of those benefits have any relationship to WCB benefits?

MR. GILL: No.

MR. LASKIN: I mean, are they cumulative? You can get both WCB benefits and those benefits?

MR. GILL: No.

MR. McCANN: No. If you get compensation, you are cut off the S and A...the sick and accident.

MR. LASKIN: I see. How do the sickness and accident benefits compare monetarily?

MR. McCANN: It compares...I think it's a hundred and sixty dollars...

MR. GILL: It varies from place to place.

MR. McCANN: ..for sick and accident. Compensation is seventy-five percent.

MR. GILL: There are some cases where there is a direct percentage relationship to compensation. But that's a rare...

MR. DOUGLAS: I think if you are making reference to the S and A and the simplicity of obtaining it, in many cases it was a hindrance to anybody who could possibly have been a WCB claim. It was much easier to get an S and A claim back for those days.

MR. GILL: It just kept a few people eating instead of starving, that's all it does.

MR. LASKIN: Thank you very much, Mr. Gill.

DR. DUPRE: Well, Mr. McCann, Mr. Dougals, Mr. Gill, we are in your debt and I guess we have a date before too long in Windsor.

MR. GILL: Thank you.

DR. DUPRE: May I welcome now, please, Mr. Robert Timberg, I believe, from the Canadian Environmental Law Association.

Good evening, Mr. Timberg. We just literally received the final copy of the written brief. We have, however, been able to scan it, but we are in your hands for such opening

DR. DUPRE: (cont'd.) statement as you care to make.

MR. TIMBERG: Fine. Thank you, Mr. Chairman.

5 First of all, I would like to apologize for the lateness in the time it took to get the brief to you, and I thought that what I would do, I would just highlight the main portions of the brief.

10 First of all, dealing with who we are: The Canadian Environmental Law Association was founded in 1970, and we basically are a public interest environmental law group committed to the enforcement and improvement of environmental laws. We are funded by the Ontario Legal Aid Plan and we are a Legal Aid clinic and we primarily provide Legal Aid services to people who can't afford to hire a lawyer or who, for whatever reason, are unable to obtain legal advice.

15 Because of our increasing involvement lately in what might be called toxic substances cases, we follow with interest the many problems respecting health effects that workers and members of the general public seem to be suffering from society's continued use of asbestos. Therefore we are pleased to have an opportunity to make this oral submission to the Commission.

20 The first portions of our brief we simply go through, describe what asbestos is, the uses of asbestos, and look at asbestos as a health hazard from an occupational point of view, and those matters...or those are points which I am sure that the Commission knows a lot about so there is no need for me to go into them at all.

25 But I would like to start by looking at asbestos as a health hazard from a nonoccupational or what we term an environmental point of view.

30 It's clear that asbestos is a virtually

MR. TIMBERG: (cont'd.) indestructible substance, and because of that it persists in the environment for long periods of time and it can be distributed widely by both natural and man made forces, thus people not employed in asbestos-related occupations may be exposed to asbestos fibres and such fibres may be inhaled, as in an office building in which the air has been contaminated by fibres from insulating materials, or they can be ingested through food, water or drugs.

I have attached to the back of our submission as Appendix D a document entitled Regulatory Actions and Experiences in Controlling Exposure to Asbestos in the United States, and this was a report prepared by Mr. William J. Nicholson of the Mount Sinai School of Medicine in the United States. In that paper he has analyzed the attempts in the United States at regulating exposure to asbestos, both from an occupational and nonoccupational point of view.

In that paper he refers to two studies of adverse health effects resulting from nonoccupational exposure to asbestos. One study, which is by a gentleman named Wagner, in South Africa in 1960, associated cancer with environmental asbestos exposure, while the other study by Anderson in 1976 reported on Abnormal X-rays Characteristic of Asbestos Exposure in Family Contacts of Asbestos Workers.

Since the Wagner study in 1960, there have been reports of other nonoccupational cancers from perhaps nine other countries, including the United States, and it is believed that these cases are due to exposure of family members to asbestos brought home on the clothes of asbestos workers.

Further sources of environmental exposure to asbestos result from contamination of air and drinking water with asbestos fibres. With respect to the contamination of air by asbestos fibres, it has been demonstrated that there have been high concentrations of asbestos in communities

5 MR. TIMBERG: (cont'd.) adjacent to asbestos industries, and with respect to contamination of water with asbestos fibres...perhaps a major or one of the major sources of asbestos in the Great Lakes Basin is the Reserve Mining Company operation at Silver Bay in Lake Superior. Reserve has for many years dumped near Duluth, Minnesota, mine waste containing a high concentration of asbestos fibres.

10 Back in April 1974, a United States federal district court judge, Myles Lord, granted an injunction on health damage grounds prohibiting Reserve from further dumping of its mine wastes into Lake Superior.

15 Shortly thereafter, however, a federal appeals court reversed the decision of Judge Lord, notwithstanding that it was unknown whether the contamination of Lake Superior waters with asbestos would result in an increase in the cancer rate in people using the waters as a drinking water source.

20 Subsequent to that decision of Judge Lord in April, 1974, the Great Lakes Research Advisory Board reported to the International Joint Commission, it was in February, 1975, they reported...a report on the background levels of asbestos in waters of the Great Lakes, and they confirmed that background levels varied generally from perhaps one to ten million fibres per litre, although in the vicinity of Silver Bay the level was approximately two hundred and fifty million fibres per litre.

25 William Nicholson in his paper in which he looked at the regulatory actions in the United States in controlling exposure to asbestos, has concluded that...and here I quote his words...he said, "The history of efforts to control human exposure to asbestos has not been an auspicious one, and furthermore, there has been little for which to congratulate ourselves."

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5 MR. TIMBER: (contd.) In 1907 a British government report stated, "One hears generally speaking that considerable trouble is now taken to prevent the inhalation of dust so that the disease pulmonaryfibrosis is not so likely to occur as heretofore."

10 Similarly, a 1930 British government report commented optimistically, "The outlook is good. In the space of a decade or thereabouts, the effects of energetic application of preventive measures should be apparent in a great reduction of the incidence of fibrosis."

15 Those comments are typical of the comments that have been made by various bodies over the past century.

20 Next, Mr. Chairman, what I would like to do is just to highlight briefly what we feel are the weaknesses and deficiencies in our existing regulatory framework.

25 Looking at it first of all from an occupational point of view, there are in our opinion at least two main areas of concern. The first concern deals with the current Ministry of Labour guidelines as well as their proposed regulation, and particularly the exposure limits in those guidelines.

30 Those exposure limits overlook fibres less than five microns in lengths, and some experts consider these short fibres to be more harmful than longer fibres because of the tendency of these short fibres to pass into the human lymph and blood systems.

Secondly, the exposure limits in the proposed regulation may not be strict enough to prevent cancers. Recent evidence indicates that the dose-response curve for exposure to asbestos is linear and not S-shaped as previously assumed, and that therefore there is no safe exposure limit.

MR. TIMBERG: (cont'd.) In the United States, the joint NIOSH-OSHA working group, in April, 1980, confirmed that there is no safe exposure limit and that exposure to any type of asbestos can result in adverse health effects.

Consequently, the working group recommended that substitutes for asbestos be used whenever possible so that nonessential uses could be eliminated, and that the limit for occupational exposure to any type of asbestos be reduced to point one fibres per c.c., which figure is the lowest reliable detection limit.

Looking at the regulatory framework with respect to the nonoccupational or environmental point of view, there are few jurisdictions that have established limits for environmental exposure to asbestos. Of those that have, most are restricted to limiting emissions from sources to protect neighboring residents from asbestosis. These limits are not, generally speaking, directed towards prevented cancers resulting from exposure to asbestos.

One example of a typical standard which has been promulgated in other jurisdictions is the one in the United States where the Environmental Protection Agency has promulgated an emission standard prohibiting visible emission of asbestos from various operations.

In Ontario, the Ontario Ministry of Labour has given a number of reasons to explain the problems they have in developing appropriate standards for asbestos in ambient air, and the Ministry of Labour would be looking at it primarily from a point of view of ambient air levels inside buildings, public buildings, office buildings, etc. A lot of their reasons depend on their belief that there is insufficient health evidence on which to make a decision as to what should be an acceptable exposure limit, and these reasons may no longer be valid and must be reconsidered in view of the NIOSH-

MR. TIMBERG: (cnt'd.) OSHA April, 1980 report which confirmed that there is in fact no safe exposure limit.

5 Next, Mr. Chairman, from the regulatory point of view I would just like to highlight two portions of Ontario's Environmental Protection Act. One portion of the Environmental Protection Act, which is termed part five of the Act, relates to what is called waste management. Under this part of the Act, the operation of a waste disposal site, which would be a landfill site or a garbage dump or a waste management system, 10 requires a certificate of approval from an official in the Ministry of the Environment known as the Director of Approvals.

Now, the Director does not treat the dumping of inert fill as a waste requiring approvals. Therefore, such materials as construction debris, which are very heavily contaminated with asbestos, is now being dumped into the Toronto 15 Harbour at the Leslie Street spit without any certificate of approval being required and without the Ministry or anyone apparently testing to see what are the asbestos limits in that debris and in that instance what we have is, since there is no control on the disposal of asbestos to the aquatic environment, we are really getting into another mini Reserve 20 Mining situation.

Another portion of the Environmental Protection Act which I would just like to highlight is a new portion which was enacted in December, 1979. This is termed part 25 eight A, which refers to...relates to spills. Part eight A is intended to make the owners and handlers of toxic substances responsible for reimbursing victims of spills for property damage, financial losses, etc. This part has never been proclaimed, and moreover regulations under that part... and regulations are intended to set up a corporation to compensate victims of pollution...have not yet been promulgated. 30

As a matter of policy, we feel that all victims

5 MR. TIMBERG: (cont'd.) of pollution should
be compensated for all losses, including health damage, and
it is arguable that part eight A of the Environmental Protection
Act will not cover members of the general public who suffer
10 damage as a result of, for example, the emission of asbestos
to the environment. The reason we say that is, part eight A
is couched in terms of compensation to victims of spills, and
spill is defined as something that is abnormal or to the
contrary or otherwise not allowed by a permit or regulation,
15 so it's arguable that...and I think very strongly arguable..
that a member of the general public who perhaps...or who
does encounter an asbestos-related disease will not be able
or will not be entitled to compensation from that fund whenever
it is eventually set up.

20 Our recommendations are brief. Because cancer
may result from only a brief exposure to asbestos, and
there appears to be no safe exposure limit, it is clear that
exposure from both an occupational and a nonoccupational
or environmental point of view must be prevented.

25 Therefore we feel that the NIOSH-OSHA
recommended occupational exposure limit of point one fibres
per c.c. should be adopted, and stricter limits should be
promulgated as detection instruments become more and more
sensitive.

30 As well, we believe that substitutes for asbestos
should be used whenever and wherever possible. However,
before these substances are used, we feel it would be prudent
to determine whether the suggested replacement itself
constitutes a health hazard.

Moreover, if it is established that it is
essential that asbestos be used in the future in a particular
application, then we feel that it should be used in an
35 encapsulated environment only to prevent escape. In other
words, a system in which the asbestos should be used should
be a closed system.

MR. TIMBERG: (cont'd.) Nonessential existing applications of asbestos should be discontinued, and the asbestos removed and disposed of.

5 Finally, asbestos-contaminated material should be disposed of in approved waste disposal sites where there is no possibility that the fibres from the asbestos will reach ground or surface water, flow regimes, and where there is no possibility that the fibres will be dispersed by wind action.

10 That, Mr. Chairman, is just a brief summary of our submission, and I would be happy to answer any questions on it. I noticed, or I listened with interest to the previous submission by the union people, and the comment was raised about patent law and industrial property and trade secrets.

15 That is a very interesting area and I think it is a very, very relevant area. I am a patent agent as well as a lawyer, so if the Commission has any questions, I would be happy to answer them in that regard as well.

DR. DUPRE: Since you mentioned that right at the end, should I just ask Dr. Uffen to add off on the added bonus, so to speak, that you are offering this evening?

20 DR. UFFEN: It is a very interesting thing. My knowledge of patent law is pretty rusty, but maybe you could refresh our memory.

25 Is the business of disclosure, if someone discloses the essence of their patentable process or device, then they just lose it. What, in law, would we do to remove this conflict between the need for public...how do you put it... public participation and review, with the need in law for nondisclosure?

30 MR. TIMBERG: It's a problem we run into all the time, and I think federal Environment Canada is running into it as well, because they like to gather as much information as possible on the use of hazardous chemicals and toxic substances and I know they run into problems in

MR. TIMBERG: (cont'd.) obtaining information because many companies say, well, we don't want to give you the information because it is a trade secret and if we give you the information and it's spread around, then our competitor working backwards can determine what our manufacturing process is.

I think the problem primarily is, from a trade secret point of view, I don't know whether patents themselves are a problem, because to get a patent you have to disclose a certain amount of information to the patent office and then that's eventually published in a document called the Patent, so a certain amount of information comes out. The problem is with respect to the information that corporations keep secret, and keep as a trade secret and don't disclose to anyone at all.

For instance, I believe that it was mentioned in the area of substitutes, when a corporation is working on a possible substitute product using something other than asbestos. That may very well be that they would consider it to be a trade secret and would not divulge it, and at the moment there is nothing short of passing a special law that could force those companies to divulge information which they consider to be trade secrets. There is no obligation on them to disclose that information.

I do know Environment Canada is looking into the problem because they would like to get as much information as possible on hazardous and toxic chemicals, and they are running up against corporations that raise the question of trade secrets.

It is a very difficult problem, but at the moment there is nothing that I know of that can be used to force companies...

DR. UFFEN: Is that law federal jurisdiction?

MR. TIMBERG: Yes, it is.

5 DR. UFFEN: While I'm thinking of federal jurisdiction, you made some good points in here about water disposal near Duluth, and so on. Under whose jurisdiction would that come, the International Joint Commission, the Ontario Water Resources...what do you call it? Which law applies and what do we do if it is being dumped over near Duluth?

10 MR. TIMBERG: In a situation like that, the body that looked at it was the International Joint Commission, but they have only advisory powers to advise either the United States government or the Canadian government. There is, in my opinion, not much you can do about that here in Ontario, except use political processes to force, in this instance, 15 people in Minnesota to clamp down on Reserve. But there is nothing that I know of in Ontario or in Ontario law that could be used to stop a situation like that, because it gets into transboundary pollution, which is a very, very complicated area.

20 DR. DUPRE: Could I just ask a late-evening question from someone who, from time to time, feels he is about to scream as he tries to hack through the jungle of guidelines, regulations and so on, on the environmental side of things in Ontario...Still somewhere on my learning curve, not anywhere near where I would like to be.

25 Could I ask you the following: See, I note on page six that we now have in Ontario an ambient air quality guideline, which is...whatever it is down there, point zero four fibres.

30 Now, I then note when I turn to page eight that you state in the...towards the top of the page..."It is therefore essential the regulations be enacted in Ontario under the province's

DR. DUPRE: (cont'd.) "Environmental Protection Act establishing very strict standards relating to the emission of asbestos to the air and land environments from all sources".

Now as I would take it, what you are telling me there is that there does exist legislative authority under the current Environmental Protection Act to issue legally enforceable standards that have to do, let's say, with the emission of asbestos fibres, say from a plant?

MR. TIMBERG: Yes, they have...

DR. DUPRE: Into the environment?

MR. TIMBERG: Yes, they would have authority to do that under the Environmental Protection Act. They would have similar authority to pass a regulation under the Ontario Water Resources Act dealing with disposal of, say, asbestos contaminated materials into the aquatic environment.

DR. DUPRE: Good. My question is this: Do they, under the Environmental Act, have the legislative authority to turn what is now the ambient air quality guidelines into a regulation?

MR. TIMBERG: I believe they do, yes.

DR. DUPRE: I see. Would that also be...what part of the Act would that be under? Do you know, would that be part five as well?

MR. TIMBERG: No. Under the Environmental Protection Act they have general powers for enacting regulations, and they have...their main regulation is what's called, it was called regulation fifteen. Regulation fifteen and other regulations made pursuant to regulation fifteen, and there is a schedule attached to regulation fifteen in which they go through all kinds of contaminants and they set concentration limits and exposure limits, and they have another regulation,

5 MR. TIMBERG: (cont'd.) regulation 872, in which they set ambient air quality criteria, and they set criteria for all kinds of contaminants. They have carbon monoxide, they have floride, they have arsenic, etc., but one they don't have, for whatever reason, they just don't have asbestos in there.

DR. DUPRE: Asbestos is simply a guideline?

MR. TIMBERG: Asbestos is only a guideline, yes.

DR. DUPRE: What is the legal impact of that?

10 MR. TIMBERG: Well, since asbestos is only a guideline there is no legal impact whatsoever.

DR. DUPRE: So it's a prayerful wish, so to speak?

15 MR. TIMBERG: That's a nice way of putting it, yes. If it was in a regulation and they stated that the level for emissions from a plant, for example let's pick a number, point zero four fibres per c.c., that would be the limit, then if a source exceeded that limit, then it would be possible to prosecute them under the provisions of the Environmental Protection Act because they are not complying with the regulation.

20 But at the moment it's just a guideline, and it's nothing more.

DR. DUPRE: All right.

Mr. Laskin, do you have any questions?

25 MR. LASKIN: In your experience do these guidelines have a way of finding themselves subsequently being regulations? I mean, is this a warning to people that... to put their act together, as it were?

30 MR. TIMBERG: That's sometimes how I look at it. The government will sometimes issue a guideline and then after a number of years, after they have been subject to pressure from all sides, then they may enact that guideline

MR. TIMBERG: (cont'd.) in a regulation. It may be the exact guideline, or it may be in somewhat modified form. But I think they generally do throw out these guidelines just to see what the public response is going to be.

But then again if they are going to do something like that, they could just as well propose a regulation in which they state in the regulation that the proposed emission standard would be a certain limit, and then let the public debate that through submissions and hearings and whatever. So I think they could achieve it, the same end result much more quickly by going through a formalized regulation making process.

MR. LASKIN: The only other question I have is this part on page eight where you talk about certificates of approval. Can you elaborate on why the director is taking the position he apparently has with respect to inert fill? I take it your point is that there may be waste disposal sites that contain asbestos, but because of the policy applied by the director they don't have to be certified?

MR. TIMBERG: Well, under the...there is a regulation made under the Environmental Protection Act, it's regulation 824, and that regulation basically states that there is something called inert fill, and inert fill is what is called a designated waste, so since it is a designated waste it doesn't need a certificate of approval.

But inert fill that is contaminated with toxic chemicals or hazardous waste definitely does need a certificate of approval. In this particular instance, the ministry is simply taking the position that this is inert fill and although they and everyone else know that it is contaminated with asbestos, they have...at least to our knowledge...they are making no attempts to check for asbestos or check for other types of hazardous or toxic chemicals and they are just

MR. TIMBERG: (cont'd.) allowing the dumping to proceed without a certificate of approval.

5 DR. UFFEN: Well, it is one of the most inert chemicals, ferromagnesian silicate, and there may be a historical reason for calling it inert. It's chemically inert.

I can see that interpretation being a logical one, if not very wise.

10 MR. TIMBERG: In my opinion it's certainly not very wise because although you may describe it as inert it certainly is a hazardous product...

DR. UFFEN: We are dealing with a substance which is both inert and hazardous...

MR. TIMBERG: Yes, yes.

15 DR. UFFEN: ...and the original law may not have foreseen that possibility.

MR. TIMBERG: It's possible, yes.

MR. LASKIN: Has your organization sought to challenge any of these proceedings? Is there a procedure to challenge the withholding or the nonrequirement of the certificate?

20 MR. TIMBERG: We're thinking about it. About the only way we could really challenge it would be to go to court and seek judicial review and perhaps obtain, attempt to obtain an injunction to stop the dumping of this inert fill. But that's the only avenue we have open to us.

MR. LASKIN: Thank you very much.

25 DR. DUPRE: May I thank you very much for your appearance tonight, Mr. Timberg, for your brief, and for the unexpected added bonus on patent law. Thank you indeed.

The Commission now rises until ten o'clock tomorrow morning.

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THE INQUIRY ADJOURNED

THE FOREGOING WAS PREPARED
FROM THE TAPED RECORDINGS
OF THE INQUIRY PROCEEDINGS
Edwina Macht
EDWINA MACHT

